2006 ANNUAL REPORT

OF THE

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SUBMITTED TO THE MEMBERS OF THE ILLINOIS GENERAL ASSEMBLY

Annual Report
Compiled and Edited By

Deborah Connelly & Amy Kreidler
Assisted By
Al Cano
Mary Craig
Claire Eberle
Rita Messinger
Matt Rice
Elaine Spencer
Ed Stasiewicz
Brad Taylor
Vicki Thomas

2006
ANNUAL REPORT

of the

JOINT COMMITTEE ON ADMINISTRATIVE RULES

Submitted to the Members of the
Illinois General Assembly

Senator Maggie Crotty, Co-Chair
Representative Brent Hassert, Co-Chair

Senator J. Bradley Burzynski
Senator James F. Clayborne, Jr.
Representative Tom Holbrook
Representative David Leitch
Representative Larry McKeon
Representative David Miller
Representative Rosemary Mulligan
Senator Steve Rauschenberger
Senator Dan Rutherford
Senator Ira Silverstein

Vicki Thomas
Executive Director

700 Stratton Building
Springfield IL 62706

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

700 STRATTON BUILDING
SPRINGFIELD, ILLINOIS 62706
217/785-2254

February 1, 2007

Honorable Members of the 95th General Assembly:

As Chairs of the Joint Committee on Administrative Rules, we hereby submit the 2006 Annual Report of that Committee. An overview of the Committee's rules review activities can be found in the following pages.

The Joint Committee on Administrative Rules gratefully acknowledges your continued support and assistance. We encourage all members of the General Assembly to take an active role in this vital oversight function guaranteeing that the public right to know is protected through an open rulemaking process. We welcome your suggestions and comments on agency rules and the role of the Committee. Only as each elected representative becomes concerned and involved in the oversight process can the Committee ensure that the intent of the legislation we pass is maintained.

Sincerely,

Maggie Crotty

Senator Maggie Crotty
Co-Chair

Representative Brent Hassert
Co-Chair

JCAR Annual Report: 2006

Table of Contents

JCAR Its Creation and Its Purpose

Creation

The Illinois General Assembly created the Joint Committee on Administrative Rules (JCAR) in 1977 and delegated to it the responsibility of the legislative branch to ensure that the laws it enacts are appropriately implemented through administrative law. The specific duties and authorities of JCAR are outlined in the Illinois Administrative Procedure Act (IAPA), as is the Illinois rulemaking process.

Responsibilities

The Committee's principal programs and activities include:

- *Review of general rulemaking*. In the course of this review, JCAR seeks to facilitate involvement by the affected public and to make the review process a timely and efficient one that assists State agencies in their goal of enacting the best administrative law possible.
- *Review of emergency and peremptory rulemakings* to ensure that they are justifiable within the IAPA's limitations on these types of rulemakings. Emergency and peremptory rulemakings are not subject to the IAPA's public comment period, and thus should be used conservatively.
- *Review of existing agency rules and policies* to determine if they have been properly promulgated, are unauthorized or unreasonable, or result in serious negative impact on the citizens of this State. These reviews can be undertaken upon JCAR's own initiative or in response to a complaint from the public.
- *Public Act review* to determine the necessity for new or amendatory rulemaking in response to legislative changes. JCAR devises a list of laws it believes may generate rulemaking activity, shares that list with the agencies, and monitors agency activity to determine if appropriate action is taken.
- *Legislative activities*. JCAR reviews any proposed legislation that amends the Illinois Administrative Procedure Act and brings to agencies' attention any resulting changes in rulemaking procedures. Legislation involving issues that have recently come before JCAR is also followed. Under its IAPA mandate to continually seek to improve the rulemaking process, JCAR occasionally initiates legislation revising the IAPA. It also may propose legislation when rules review brings attention to a statutory insufficiency or lack of clarity or to enforce its Objections or Recommendations when an agency has refused to adhere to those Objections or Recommendations.
- *Public information.* JCAR provides information on rules and the rulemaking process to legislators and the public through several conduits. First, JCAR publishes *The Flinn Report: Illinois Regulation*, a free weekly newsletter that summarizes State agency rulemaking activities. The newsletter is used by many as an alternative to subscribing ($290/yr.) to the *Illinois Register* and is available on-line, as well as by mail. The newsletter highlights the major issues; the reader can then seek a copy of the specific rulemaking or further information from the proposing agency. Second, JCAR has created and maintains the *Illinois*

Administrative Code database. The database is used in the publishing of the *Illinois Register* by the Secretary of State's Index Department. State agencies can request materials from the database for use in drafting amendatory rulemakings. The database is also accessible on the General Assembly website (www.ilga.gov). While emergency rules are not imbedded into the database, the database shows where emergency rules have been adopted and contains automatic links to the *Illinois Register* database, where the emergency rules can be viewed. Third, JCAR staff is always available to respond to inquiries from General Assembly members and the public. (For information, or to be added to the *Flinn Report* mailing list, call 217/785-2254 or contact JCAR by e-mail at jcar@ilga.gov.)

The Review Process

The JCAR membership meets at least once each month to consider an agenda that generally includes from 50 to 100 separate rulemakings by State agencies. In a year's time, JCAR will review approximately 20,000 pages of rule. The IAPA dictates that the Committee's analysis of rulemakings be based on such concerns as statutory authority and legislative intent; necessity of the regulation; economic impact on State government and the affected public; completeness and appropriateness of standards to be relied upon in the exercise of agency discretion; effect on local government through the creation of a mandate; adherence to IAPA rulemaking requirements; and form.

JCAR's review of agency regulatory proposals is predominantly substantive. Its major concern is that statutory law is applied fairly and consistently, creating as little paperwork and economic burden for the affected public as possible. The Committee serves as the final avenue for input from the public before a rulemaking is formally adopted. Recommendations from the public are always welcome and are actively sought. The Committee recognizes that no one is as qualified to comment on the appropriateness and practicality of a proposed regulation as the individual whose activities or business practices will be affected by that regulation. Comment on any proposed or existing State regulation may be submitted to the Committee at 700 Stratton Building, Springfield IL 62706, or by calling 217/785-2254.

JCAR's perusal of agency rulemakings serves a technical purpose as well. The various rulemakings of the State agencies collectively comprise the *Illinois Administrative Code*. In giving a final technical review to each agency proposal, JCAR, along with the Secretary of State's Index Department, strives to achieve some degree of consistency among the individual agencies' portions of the *Code*, and to make the *Code* as readable and understandable for the public as possible.

Annual Report

This Report includes narratives of JCAR activity during 2006, as well as the statistical summaries of the rulemaking activities of State agencies. The summary of legislation affecting JCAR reflects activity of the 2nd year of the 94th GA. This Report also includes a historical overview of rulemaking, pertinent historical statistics, and the most recent version of the Illinois Administrative Procedure Act.

JCAR MEMBERSHIP

The Joint Committee on Administrative Rules consists of 12 legislators who are appointed by the General Assembly leadership. Membership is equally apportioned between the 2 houses and the 2 political parties. Two Co-chairs are selected as provided by law. The Co-chairs are not members of the same house or the same party.

2006 MEMBERS

Senator Maggie Crotty, Co-Chair
Senator J. Bradley Burzynski
Senator James F. Clayborne, Jr.
Senator Steve Rauschenberger
Senator Dan Rutherford
Senator Ira Silverstein

Representative Brent Hassert, Co-Chair
Representative Tom Holbrook
Representative David Leitch
Representative Larry McKeon
Representative David Miller
Representative Rosemary Mulligan

FORMER MEMBERS

Bill W. Balthis
Allen Bennett
Arthur L. Berman
Bill Black
Prescott E. Bloom
Glen L. Bower
Jack E. Bowers
Woods Bowman
John W. Countryman
Mary Lou Cowlishaw
Tom Cross
John Cullerton
Michael Curran
Richard M. Daley
Steve Davis
Vince Demuzio
Laura Donahue
James H. Donnewald
Thomas Dunn
Jim Edgar
Tom Ewing
Beverly Fawell
Monroe Flinn
Barbara Giolitto
James Gitz
Alan J. Greiman
Kenneth Hall
Charles Hartke
Karen Hasara
Carl E. Hawkinson
Larry Hicks
Manny Hoffmann
Emil Jones, Jr.
Jeremiah E. Joyce
Douglas N. Kane
Doris Karpiel
Richard Kelly, Jr.
Bob Kustra
Thaddeus "Ted" Lechowicz
Larry Leonard
Ellis Levin
Richard Luft
Lisa Madigan
John W. Maitland, Jr.
Lynn Martin
John M. Matejek
Roger McAuliffe
Thomas J. McCracken, Jr.
Sam McGrew
A. T. "Tom" McMaster
Jim Meyer
Phil Novak
Barack Obama
William O'Daniel
Myron J. Olson
Coy Pugh
Jim Rea
David J. Regner
Jim Reilly
Philip J. Rock
Tom Ryder
George Sangmeister
Frank D. Savickas
John Sharp
Todd Stroger
Art Tenhouse
Donne E. Trotter
Sam Vinson
Richard A. Walsh
Larry Wennlund
Robert C. Winchester
Kathleen Wojcik
Harry "Babe" Woodyard
Larry Woolard
Harry "Bus" Yourell

Illinois Rulemaking Process

Law basically exists in 4 forms: constitutional law, statutory law, administrative law and case law. Constitutional law creates broad guidelines. Legislation creates specific restrictions, authorities and programs. Administrative law adds the detail often necessary to implement statutory law. If these 3 categories of law do not sufficiently address all the variables, case law evolves.

In 1975, the Illinois General Assembly enacted the Illinois Administrative Procedure Act (IAPA) [5 ILCS 100] to create a procedure through which administrative agencies would exercise the authority delegated to them by the legislature to create administrative law through the adoption of agency regulations. In 1977, the IAPA was amended to add a process by which the General Assembly would oversee the exercise of this delegated authority through the Joint Committee on Administrative Rules (JCAR), a service agency of the General Assembly.

Rules of an administrative agency are valid and enforceable only after they have been through the rulemaking process prescribed in the IAPA. Rules are for the purpose of interpreting or implementing provisions of a statute and should not actually expand or limit the scope of the statute.

Types of Rulemakings

Proposed Rules. These can be new rules or amendatory rulemakings. Frequently this is referred to as "regular rulemaking" or "permanent rulemaking". A 2-step (First Notice and Second Notice) process is followed, requiring from 90-365 days. Aside from the basic 90 days, the agency controls the timing. Both the general public and the General Assembly, through JCAR, can have input prior to adoption.

Emergency Rules. Rules are effective immediately upon the agency filing them with the SOS or within 10 days after filing. These rules can be developed unilaterally by the agency; JCAR reviews after the rules are adopted. An emergency rulemaking lasts 150 days unless an earlier date is specified or the emergency rule is replaced by a permanent rulemaking. Emergency rulemaking can be used only if the agency finds a threat to the public interest, safety or welfare exists that the rulemaking will address.

Peremptory Rules. The IAPA provides for the immediate adoption of a rule required as a result of a federal law, federal rule, collective bargaining agreement, or a court order under conditions that preclude discretion by the agency concerning the rule's content. Peremptory rules are effective upon filing with the SOS or on the date required by the federal law, federal rule or court order. JCAR reviews these rules after their adoption.

Exempt or Identical in Substance Rules. The IAPA and the Environmental Protection Act create a special process through which PCB can adopt environmental regulations that are identical in substance to federal regulations that the State is required to adopt and enforce. These rulemakings are reviewed by JCAR after adoption.

Required Rulemaking. These are rules of an agency that can be adopted unilaterally by the agency by filing with the SOS. Examples are organization charts, principal address, Freedom of Information Act information, hearing officer qualifications, etc. JCAR reviews required rules after their adoption.

The Process

Drafting of Rules. Administrative rules are drafted by State agencies; there is no central drafting bureau as for statutes. The involvement of the public in the initial drafting is at the discretion of the agency; however, the IAPA encourages early public involvement and requires agencies to semiannually publish a Regulatory Agenda indicating, to the best of the agency's knowledge, the scope of the next 6 months' rulemaking activity.

First Notice. The First Notice period commences upon publication of an agency's Notice of Rulemaking in the Illinois Register. First Notice lasts a minimum of 45 days and terminates when the agency files with JCAR, commencing the Second Notice period. The only limitation is that a rulemaking expires if not adopted within 1 year after commencement of First Notice.

During First Notice, Department of Commerce and Economic Opportunity reviews each proposed rulemaking to determine possible impact on small business. The general public can submit comment on the rulemaking proposal to the agency and a public hearing may or may not be held during this period. The agency can volunteer to hold a hearing or must conduct one at the request of the Governor, JCAR, an association representing over 100 persons, 25 individuals, or a local government. Requests for hearing must be filed within 14 days after publication of the First Notice. The agency can modify the rulemaking during First Notice by submitting a First Notice Changes document to JCAR when it gives Second Notice.

Second Notice. The Second Notice period commences upon the agency's filing of the Second Notice with JCAR and lasts for a maximum of 45 days, unless extended for an additional 45 days by mutual agreement of JCAR and the agency. During the Second Notice Period, legislative review of the rules is conducted first by the JCAR staff and then at a meeting of the legislative members. JCAR reviews the proposed rules for statutory authority, propriety, standards for the exercise of discretion, economic effects, clarity, procedural requirements, technical aspects, etc.

During the JCAR review, JCAR and the agency can agree to modifications in the rulemaking that are adopted through written JCAR Agreements. The Agreements are appended to the Certificate of No Objection issued by JCAR at its regular meeting, or are still applicable if no Certificate is issued but the agency proceeds to adopt. If the agency does not choose to modify a rulemaking or if policy differences cannot be resolved during the review process, JCAR can take one of several actions.

JCAR Motions

Certificate of No Objection. With the Certificate, the agency can proceed to adopt the rules by filing them with the SOS for publication in the Illinois Register.

Recommendation. (Issued along with a Certificate of No Objection) The agency must respond

to the Recommendation in writing within 90 days and can modify or withdraw the rule in response to a JCAR Recommendation. (After going to Second Notice, the agency cannot unilaterally modify/ withdraw a rulemaking.) However, the agency can also adopt the rules with no changes at any time after receipt of the Certificate of No Objection.

Objection. An agency has to respond to an Objection in writing within 90 days, but after responding can proceed to adopt. The agency can modify or withdraw in response to a JCAR Objection or adopt the rules without changes. JCAR Agreements still apply.

Filing Prohibition/Suspension. If JCAR determines that a rulemaking constitutes a threat to the public interest, safety or welfare, the members can, by a 3/5 (8 members) vote, prohibit filing of a proposed rulemaking (or suspend an emergency or peremptory rulemaking). As a result, the proposed rulemaking may not be accepted for filing by the Secretary of State or enforced by the agency. An emergency or peremptory rulemaking, which is already a filed and adopted rule, becomes null and void. A Prohibition/Suspension is permanent unless: (1) the agency agrees to satisfactorily modify or withdraw the proposed rulemaking or satisfactorily modify or repeal the emergency or peremptory rulemaking; (2) JCAR withdraws the Prohibition/Suspension within 180 days; or (3) the General Assembly passes a joint resolution within 180 days stating that the GA desires to discontinue the Prohibition/Suspension.

Public Notification

Illinois Register is the official State publication through which the public is informed of rulemaking activity. The Illinois Register is prepared by JCAR and published by the Secretary of State every Friday and can be accessed through the General Assembly website (www.ilga.gov) or the Secretary of State's website. The Register contains First Notice publication of rulemaking proposals, JCAR actions, a list of Second Notices received by JCAR, notices of final adoption of rulemakings, regulatory agendas (in January and July), executive orders and proclamations, and quarterly indexes to the current and previous issues. Over the course of a year, the Register can contain around 25,000 pages. It can be ordered in hardcopy from the Secretary of State for $290/year, can be seen on both the General Assembly's and the Secretary of State's websites, and is available electronically through private publishers.

The Flinn Report: Illinois Regulation is a 4-6 page weekly publication by JCAR that summarizes the rulemaking activity depicted in the matching issue of the Illinois Register. The Flinn Report is mailed free of charge to anyone who requests it and is also available weekly on the General Assembly's website at www.ilga.gov.

Illinois Administrative Code. The compilation of all agency rules is known as the Illinois Administrative Code. The Code, which is larger than the Illinois Compiled Statutes, is maintained electronically by JCAR/LIS. That database is located on the General Assembly's website at ilga.gov and State agencies can request from JCAR downloads of specific Sections to use for drafting purposes.

Public Participation

One of the main reasons the IAPA was enacted was to give the public input into the rulemaking process. Any interested persons may contact an agency during the First Notice period to record a position on a rulemaking proposal. Additionally, many agencies consult with their identified interest groups during the pre-First Notice drafting process.

When the rulemaking goes to Second Notice, JCAR receives a copy or summary of all written comment submitted to the agency. In addition, the public may contact JCAR directly, and frequently does so if the agency refused to modify in response to public comment, or if they discovered the existence of the proposal too late for the First Notice public comment period.

Public comment is vital to the JCAR review process. Frequently, it is only through this comment that the Committee fully recognizes the effect of a rule on the individual, business or local government that has to adhere to it on a daily basis.

The public may also lodge complaints about existing rules. Agencies are required to allow the public to suggest rule revisions. Additionally, JCAR may open an investigation into an existing rule on its own volition or based on public complaint.

2006 Rulemaking

In 2006, JCAR reviewed 472 rulemakings, 370 of which were general rulemakings, 65 emergency rulemakings, 21 peremptory rulemakings and 16 Pollution Control Board exempt rulemakings. JCAR voted 5 Filing Prohibitions, 23 Objections and 18 Recommendations on general rulemakings; 0 Suspensions, 10 Objections and 4 Recommendations on emergency rulemakings; 1 Objection on a peremptory rulemaking.

Some of the more notable rules on which JCAR took action are described here.

GENERAL RULEMAKING

DES - NOTICES, RECORDS, REPORTS

The Department of Employment Security proposed allowing an employer who solely employs household workers in the employer's private home (housekeepers, cleaning people, babysitters, maids and nannies) to file unemployment insurance contributions and reports yearly, rather than quarterly, if the employer specifically chooses the yearly option at the beginning of the calendar year. At its 9/05 meeting, JCAR objected because DES lacked statutory authority to allow annual reporting and contributions. DES then initiated HB 2133/PA 94-723 (May-McKeon/Ronen-Crotty; effective 1/19/06) that provides that authority but the Governor did not act on the bill before the 90 day period given to DES to respond to the Objection lapsed. The rulemaking was withdrawn by operation of law and DES, with statute in place, will not pursue rulemaking.

DHS - CHILD CARE

The Department of Human Services proposed expanding eligibility for child care assistance to parents or other relatives who are working (previously outside the home only). At its 9/05 meeting, JCAR recommended that DHS further review and amend these rules because the discretionary power of the Department to provide or withhold child care assistance to low income workers is not implemented through clearly specified standards that help avoid arbitrary application and that fully inform those persons affected by the program. JCAR noted that DHS proposed this rulemaking in response to a previous JCAR review of these rules in which it recommended that DHS specify all the standards that must be met and the relevant documentation required to verify legitimate employment or self-employment for child care assistance purposes without regard to where the work is performed. While JCAR recognized that these proposed amendments were an improvement and no longer disqualified those performing work in their home, the rules remain incomplete. DHS responded that it intends to revise the rules to more clearly define the standards that must be met for child care assistance purposes. DHS allowed this 2nd rulemaking to expire on 11/12/05 before responding to JCAR's Recommendation by stating that the Department intended to rewrite the child care assistance rules and propose a 3rd rulemaking. At year's end, DHS had not proposed such a rulemaking.

SBE - PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

The State Board of Education proposed reorganizing the Part's procedures to accommodate the federal No Child Left Behind (NCLB) requirements and updating the Part to reflect current Public Acts. At its 11/05

meeting, JCAR recommended that when SBE receives notification of the U.S. Department of Education's approval or disapproval of indicators used to determine adequate yearly progress for children with disabilities based on their IEP, it propose amendments repealing whichever provisions implement policy that has not received approval. SBE proposed 2 separate procedures to accommodate possible USDE determinations. Additionally, JCAR recommended that, when the Board finalizes its procedures for the implementation of the Student Information System, it propose a rulemaking clarifying the information being requested, the manner in which districts are to report this data, how districts lacking technological capacity to participate in this electronic system will submit this data, and the timelines for data submission. SBE agreed. SBE received a response from USDE in 1/07 and plans to commence rulemaking to address both issues.

IRB - LICENSE HEARINGS

The Illinois Racing Board proposed revising procedures regarding hearings for the purpose of awarding racing dates. At its 11/05 meeting, JCAR recommended that IRB seek a statutory clarification of apparently mutually exclusive provisions in Section 20(f-5) of the Horse Racing Act regarding rulemaking requirements for the reallocation of racing dates on an emergency basis and then propose appropriate rules to implement that clarification. IRB agreed, explained its interpretation of how the 2 statutes work together, and agreed to propose a more specific rulemaking governing the conduct of emergency hearings to reaward racing dates.

PCB - EFFLUENT STANDARDS

The Pollution Control Board set a monthly average limit of 1 mg/*l* for total phosphorus for any new or expanded discharges into general use waters from specified water treatment works, exempting dischargers if they can demonstrate that phosphorus from their treatment works is not the limiting nutrient in the receiving water and allowing EPA to impose alternative phosphorus effluent limits where the supporting information shows that limits are warranted. At its 12/05 meeting, JCAR objected because the rulemaking imposed an undue economic and regulatory burden on the affected wastewater treatment facilities by requiring those facilities to meet interim standards for phosphorus discharges. The EPA had committed to the USEPA to have numeric standards in place for nutrients, but not until 2008. This additional time should allow affected entities more time to prepare for any costs associated with these standards. PCB believes that, based on the cost information in the record, coupled with the fact that the proposed rule applies only to new or expanding larger facilities, affected facilities can incorporate the additional cost of phosphorus control in their overall expansion plans with an economically reasonable impact. JCAR issued a Notice of Failure to Remedy.

DPH - FELONS/SEX OFFENDERS IN LONG TERM CARE FACILITIES

The Department of Public Health proposed 5 rulemakings implementing PA 94-163 governing admission/ retention of identified offenders (felons/sex offenders) in licensed care facilities. Each was preceded by an emergency rule effective 7/12/05 (expired 12/8/05). At its 1/06 meeting, JCAR objected based on the incompleteness of the rulemakings and recommended that DPH modify the rulemaking to: (1) request criminal history record information in accordance with the Uniform Conviction Information Act on current residents, as well as prospective residents; (2) provide a method in which the UCIA checks occur incrementally; (3) require facilities to initiate a fingerprint-based criminal history record check as prescribed by the DSP if the results of the initial check are inconclusive; and (4) if the risk assessment determines that an identified offender need not have his or her own room, and the facility wants to not segregate the individual,

require the facility to request a waiver from DPH. DPH proposed to modify the rulemakings to have facilities request UCIA background checks on current residents, depending on the resident's birth date, by 3/20/06, 4/15/06, 5/10/06 and 5/31/06, exempting residents who have already had a check by that facility prior to 7/12/05. Registered sex offenders and persons on parole, probation or MSR for a felony will be required to have their own rooms, in direct view of the main nurses' station. If the facility's risk assessment determines that a person convicted of any felony listed in the Health Care Worker Background Check Act need not have his own room, the facility shall notify DPH. DPH will review the determination and notify the facility whether the offender requires a separate room. The modification includes factors DPH must consider in determining whether to object. JCAR accepted the modification but further recommended that DPH amend the rulemakings to allow facilities to determine the order in which and frequency at which criminal history record information is requested for current residents, as long as the information is requested on all current residents by 5/31/06. DPH modified the rulemakings to require only that the facility initiate, for current residents, a request for a background check by 5/31/06.

DFPR - HEALTH MAINTENANCE ORGANIZATIONS

The Department of Financial and Professional Regulation proposed revising required contract language between HMOs and managed care organizations and providers, including a required hold harmless clause that all capitated provider agreements shall contain after 1/1/07. The clause states that the provider agrees that, in case of HMO default on payment for services, the provider will not seek payment from individual enrollees, except for co-payments or deductibles not covered by the HMO. At its 1/06 meeting, JCAR objected because DFPR lacks statutory authority to require a contractual provision that bars individual health care providers from seeking monetary recovery for services from any HMO enrollee in the event the HMO becomes insolvent. DFPR refused to withdraw or modify the provision, citing its general authority to promulgate rules for minimum standards of coverage and authority to withhold approval of policy provisions that are unjust, unfair, etc. However, while Section 2-8 of the HMO Act expressly requires such a hold harmless clause to be included in provider agreements with hospitals, no such statutory authority affects other medical providers. JCAR issued a Notice of Failure to Remedy.

DFPR - LANDSCAPE ARCHITECTURE

Department of Financial and Professional Regulations proposed adding a new method for landscape architects to apply for registration, i.e., acceptance of examination. This method is being added to accommodate individuals who have taken and passed the Council of Landscape Architectural Registration Boards exam but are not licensed/registered in another state. When asked to explain to whom this new process would apply and under what circumstances these provisions would be applicable, DFPR responded that codifying every situation that could arise would be restrictive. DFPR refused to clarify the issue. At its 12/05 meeting, JCAR objected to Section 1275.55(a) of the rulemaking because the Department failed to make a clear distinction as to which applicants will apply for licensure under that subsection as opposed to Section 1275.60. DFPR agreed and removed the new Section 1275.55 from the rulemaking.

SBE - SCHOOL FOOD SERVICE

The State Board of Education proposed, beginning with the 06-07 school year, allowing participating schools to sell only beverages and food to PreK-8 children that meet specified requirements. Food/bever-

age sold to students as part of a reimbursable meal is exempt, as is food/beverage sold on a physician's recommendation. At its 4/06 meeting, JCAR objected and issued a Filing Prohibition stating that the proposed rules affect the public interest, safety and welfare by: setting nutrition standards that are substantively problematic as they do not provide a total approach to child nutrition through diet, nutrition education and exercise; by preempting the purview of the State Task Force on Wellness that is to consider the issue of school nutrition and report to the Governor and the General Assembly by 1/07; and by largely excluding local school district input and expertise in development of the proposal. SBE responded by proposing to modify the proposed rules following consultation with the IL Assn. of School Boards, IL Assn. of School Administrators, IL Assn. of School Business Officials and the Governor's Office. The proposed modifications would: establish the same standards for all grade levels K-8; exclude snack chips from the regulations; eliminate the restriction on beverage serving size; regulate food sales only during non-mealtimes; remove references to trans-fatty acids (information about their content is not readily available on all food packaging); eliminate the reference to Appendix B of the 2005 Dietary Guidelines for Americans as the standard for foods that can be sold (commentors pointed out that this is a sample list, not an inclusive one) and instead allow low-fat yogurts to be sold; allow a school or district to request an exemption from the nutrition standards for the 2006-07 school year if the standards would conflict with an existing contract or the school building houses grades above 8 and access to the food service facilities is not distinguished for those in grades 8 and below; and require SBE to revisit the nutrition standards and initiate a rulemaking to align them with any statewide standards recommended by the School Wellness Policy Task Force in its 1/07 report. SBE pointed out that 1978 restrictions on sales of food during elementary school meal periods would remain. The rulemaking generally focused on sales outside of food service areas. SBE also stated that, while the school management organizations remain philosophically opposed to any rulemaking in this area and/or believe rulemaking should only occur after the Task Force report, they have not raised any specific objections to the modified standards. JCAR withdrew the filing prohibition at its 10/06 meeting. SBE adopted the rulemaking, modified in response to JCAR's Filing Prohibition/Objection, effective 10/17/06. Further amendments are being studied.

IRB - POWERS OF THE BOARD AND STEWARDS

The Illinois Racing Board proposed that, in cases alleged not to be provided for in IRB rules, the matter be determined by the stewards or IRB in a manner as they think to be just and conformable to the usages and best interests of racing. At its 4/06 meeting, JCAR objected because the rulemaking violated Section 5-20 of the IAPA requiring that standards utilized in the exercise of agency discretionary powers be stated as precisely and clearly as practical under the conditions. The rulemaking failed to set forth, clearly and precisely, standards IRB or the Stewards will use in determining cases not regulated under Title 11, Subtitle B, Chapter I. IRB withdrew the rulemaking.

DFPR - REAL ESTATE AGENT ADVERTISING

The Department of Financial and Professional Regulation proposed expanding the prohibition against deceptive and misleading advertising of real estate to include advertising property in a manner that could confuse a buyer about the permitted use of that property, providing the example of advertising a property zoned for single family occupancy in any way that suggests multi-dwelling use. At its 5/06 meeting, JCAR objected because the rulemaking lacked clarity in regard to what constitutes the prohibited advertising. DFPR refused to amend the rulemaking in response to the Objection and adopted it as submitted to JCAR at 2nd Notice. JCAR issued a Notice of Failure to Remedy.

HFS - PRESCRIPTION DRUG DISCOUNTS

The Department of Healthcare and Family Services proposed establishing the Prescription Drug Discount Program. Any Illinois citizen whose household income is no more than 300% of the FPL is eligible. Enrollment fees are $10, but the Director may reduce the $10 to reflect actual administrative costs. At its 5/06 meeting, JCAR objected because, while Section 40 of the rulemaking establishes the $10 enrollment fee, it also allows the HFS Director to lower that fee to reflect actual costs. Not only could this result in HFS implementing policy outside rule, but discretionary changes in the fee could result in inequitable treatment of program participants. While HFS disagreed with JCAR's Objection, it quoted the statute stating that *the Department may reduce the annual fee by rule if the revenue from the enrollment fee is in excess of the costs to carry the program* [320 ILCS 55/35(b)]. HFS continues to refuse to effectuate reductions in the fee by rule, as required by statute. JCAR issued a Notice of Failure to Remedy based on the agency's refusal to follow statutorily directed procedures.

DCFS - CONFIDENTIALITY OF PERSONAL INFORMATION

The Department of Children and Family Services proposed that unfounded allegations of substantial risk of physical, mental or sexual injury or inadequate supervision be retained by the State Central Register for 12 months (now 60 days). At its 6/06 meeting, JCAR objected to DCFS proposing this change without first having received approval from the State Records Commission as required by the State Records Act. DCFS admitted it was unaware that it needed SRC approval prior to changing retention schedules and stated that it will continue to work with SRC before amending this retention schedule. DCFS indicated to JCAR that it would not adopt the rulemaking without SRC approval. The rulemaking expired before SRC approved the change in the retention schedule.

CMS - MEDICAL CARE ASSISTANCE PLAN

The Department of Central Management Services proposed updating MCAP rules and integrating use of an EZ Reimburse MasterCard for a $20 annual fee. At its 6/06 meeting, JCAR objected because CMS did not adopt the rules prior to making EZ Reimburse available to participants, resulting in enforcing policy not in rule. CMS agreed with the JCAR Objection and pledged to work with JCAR in the future to finalize rules prior to program implementation.

TRS - SPECIAL ELECTION OF BOARD MEMBERS

The Teachers Retirement System proposed instituting procedures for a special election if more than 6 months are remaining in a vacated trustee term. At its 6/06 meeting, JCAR recommended that TRS should seek specific statutory authority to not hold a special election if there is inadequate time remaining in the vacant term to allow the newly elected Board member to participate in at least one regularly scheduled Board meeting. TRS agreed and will pursue legislation.

DOA - BOVINE BRUCELLOSIS QUARANTINE

The Department of Agriculture proposed allowing cattle classified as reactors to the official brucellosis test performed at an auction market to be returned to the farm of origin and placed under quarantine until the

animal's status is officially determined, instead of being placed in a quarantine pen and sold for immediate slaughter. At its 7/06 meeting, JCAR objected because, by allowing livestock testing positive for brucellosis at market to be returned to their point of origin, the rulemaking conflicts with Section 5 of the Illinois Bovine Brucellosis Eradication Act and with 8 Ill. Adm. Code 85.40 (Diseased Animals). If the Department believes that allowing these animals to be returned to the point of origin is advisable, it should seek an amendment to the statute allowing this option. DOA acknowledged that clarification of the Bovine Brucellosis Act is needed with respect to suspect or reactor animals identified at a stockyard or auction market.

DOA - CANINE BRUCELLOSIS REPORTING AND QUARANTINE

The Department of Agriculture proposed adding canine brucellosis (CB) to the list of animal diseases that must be immediately reported to DOA. At its 7/06 meeting, JCAR objected because DOA enforced policy not in rule by requiring, for over a year, dog breeders and veterinarians to report canine brucellosis, a disease not listed by DOA as reportable and by requiring dog breeders to meet specified criteria for release from quarantine without statutorily required rules. DOA acknowledges that, before adoption of this rulemaking, CB was not a reportable disease. When CB results were voluntarily provided to the Department involving Animal Welfare Act licensees, DOA instituted quarantines as required under that Act, although no quarantine rules are in place for dogs. DOA did not explain why it took 9+ months to promulgate rules after the issue arose. DOA's position is that authority to quarantine means that the Department can do whatever it believes necessary, without rules or any other public notice. While at 2nd Notice, DOA agreed to promulgate rules regulating release of animals from quarantine by January 2007, its response says it will request guidance from the Board of Livestock Commissioners on this issue. It appears that, depending on the Board's advice, DOA could renege on its earlier agreement. Based on the agency's failure to stand behind its 2nd Notice Agreement, JCAR issued a Notice of Failure to Remedy.

DCFS - FIRE PROTECTION IN DAY CARE/GROUP DAY CARE HOMES

DCFS proposed notifying local fire prevention authorities of each new day care home or group day care home (DCH) licensure application or renewal application and offering them the opportunity to inspect DCHs and make recommendations on the DCH's suitability for licensure based on the Part's standards. At its 7/06 meeting, JCAR objected and prohibited filing the rulemakings because they lack clarity and because applicants/licensees and the families they serve could be adversely economically impacted. Discussions with DCFS personnel suggested that the Department was unclear about the relationship between State licensure and the authority of local fire prevention agencies and whether the role of the State and local authorities is clearly and accurately described in the proposed rulemakings. DCFS provided no further information to clarify this dichotomy. As a result, adoption of the rulemakings constitutes a potential threat to the interest and welfare of applicants and licensees, as they could be misled about operating requirements and be negatively impacted. The general public could also be impacted by any resulting unavailability of child care options. On 7/27, DCFS suggested rule text that clarifies and describes the relationship between the State and local authorities in relation to day care/group day care home fire safety inspections. JCAR withdrew the Filing Prohibitions.

DFPR - CONSUMER INSTALLMENT LOANS

The Department of Financial and Professional Regulation proposed requiring loans made under the Consumer Installment Loan Act (CILA) to provide specified consumer protections regarding military personnel

and payment procedures and prescribed prohibited acts. At its 7/06 meeting, JCAR objected to and prohibited filing the rulemaking because DFPR's application of Payday Loan Reform Act (PLRA) restrictions to CILA licensees was not specifically authorized by statute and contravened the GA's intent in creating the PLRA, CILA and the Illinois Wage Assignment Act. This significant violation of statute poses a threat to the public interest. DFPR refused to alter or withdraw the rulemaking. It argued that the CILA grants rulemaking authority to DFPR over CILA licensees for the protection of consumers and noted that a court case upheld the Department's earlier effort at regulating consumer installment loan firms when they conducted payday loan activities. DFPR did not agree that it lacked statutory authority or contravened statute. At its 11/06 meeting, JCAR withdrew that portion of the filing prohibition governing loans to military personnel. The 180-day period during which JCAR or the GA can terminate the Filing Prohibition expired 1/9/07; therefore, the Filing Prohibition is permanent.

HFPB - HEALTH FACILITY REPORTS

The Health Facilities Planning Board proposed requiring health care facilities to provide periodic reports, data and information to HFPB about capital expenditures, health planning, and reduction or temporary suspension of services. At its 7/06 meeting, JCAR objected because HFPB failed to review its rules and promulgate amendments before 12/31/04, as required by PA 93-41. Additionally, JCAR objected to the provision of the rulemaking that allows DPH to extend by 60 days the 120-day time limit on its review of a permit request. The Illinois Health Facilities Planning Act [20 ICLS 3960/8] allows only the permit applicant, not DPH, to seek an extension of the statutory 120 days cap on the review period. If HFPB believes more time is needed for these reviews, it should seek a statutory change. HFPB responded that, due to the extent of the review project, reconstitution of the Board, and the hiring of appropriate staff, HFPB missed the deadline set by statute. HFPB agreed that extending the time limit for permit request review is best addressed through a statutory change and has indicated that the Board will pursue legislation.

DVA - VETERANS' LOTTERY GRANT PROCEEDS

The Department of Veterans' Affairs proposed establishing the Veterans' Scratch-Off Lottery Grant program to use proceeds from the Veterans Cash lottery prize. Grants will be made for the statutorily established areas of post-traumatic stress disorder treatment; homelessness; health insurance cost defrayal; disability benefit providers; and long term care. At its 8/06 meeting, JCAR recommended that DVA explain in writing the methodology underlying the funding of the grants in the proposed rule (a $1 million cap on funds available to 4 of the 5 categories; all remaining funding to the 5th category), including the number of applicants it anticipates in each of the 5 categories, how many grant applicants in each category the Department anticipates that it can fund, and the logic behind the proposed distribution of funds. DVA responded that it will schedule a meeting with the veteran's groups and work with JCAR to further develop the rulemaking. DVA stated that it did not anticipate responding fully to the Recommendation or modifying the methodology contained in the rulemaking until early 2007 at the earliest. To date, it has not done so.

HFS - INSURANCE FOR CHILDREN OF LEGAL ALIENS

The Department of Healthcare and Family Services proposed removing the 5-year waiting period before children of aliens lawfully admitted for permanent residence under the Immigration and Nationality Act and children of parolees temporarily admitted for humanitarian reasons or significant public benefit are eligible for

medical assistance, including KidCare and All Kids. At its 9/06 meeting, JCAR recommended that HFS seek an amendment to the Public Aid Code [305 ILCS 5/1-11] to state that the 5-year waiting period for medical assistance does not apply to children under 19, as provided by 305 ILCS 5/12-4.35. While Section 12-4.35 supersedes Section 1-11, unless both statutes are read together, Section 1-11 could be misleading. Further, in future rulemakings HFS should cite as its statutory authority the statute that specifically authorizes or underlies the program or change in rule and not its general rulemaking authority. This same Recommendation was issued with respect to the emergency rulemaking that this rule replaces. HFS failed to respond to the Recommendation on this proposed rulemaking, but did respond to a Recommendation on the identical emergency rule that it would pursue clarifying legislation.

OSFM - SPRINKLER SYSTEM DESIGN

The Office of the State Fire Marshal proposed replacing the requirement that the designs of engineered sprinkler systems be stamped by an Illinois licensed professional engineer prior to submittal to the jurisdictional authority with the statutory requirement that fire sprinkler layout documents be prepared by a licensed architect, licensed professional engineer, or an individual who holds a National Institute for Certification in Engineering Technologies (NICET) level 3 or 4 certificate in fire protection technology automatic sprinkler system layout. At its 9/06 meeting, JCAR recommended that OSFM retain the requirement that an engineer give final approval to fire sprinkler system layout documents and expand the rulemaking to reflect the statutory addition of architects as persons also authorized to approve these documents. NICET had reported that its technicians are not qualified to work without professional supervision. OSFM agreed and modified the rulemaking.

SUCSS - EMPLOYEE DISCHARGE HEARING PROCEDURES

The State Universities Civil Service System proposed updating employee discharge hearing procedures. At its 9/06 meeting, JCAR recommended that the System seek legislation modifying the State Universities Civil Service Act [110 ILCS 70/36o] to permit statutory hearings to be conducted by a hearing officer instead of a hearing board. The System agreed.

DFPR - MEDICAL LIABILITY INSURANCE RULES AND RATE FILINGS

The Department of Financial and Professional Regulation proposed requiring insurers to offer quarterly installment payments if annual premiums exceed $500; if annual premiums are less than $500, the insurer has the option to offer quarterly payments. Prescribes minimum standards for quarterly payments. The Insurance Code [215 ILCS 5/155.18(e)] requires every company offering medical liability insurance in Illinois to offer each of its medical liability insureds the option to make premium payments in quarterly installments. The rulemaking waives this statutory requirement if the annual premium is $500 or less. At its 11/06 meeting, JCAR recommended that, if the Department believed it prudent to exempt insurers from the statutory requirement in some instances, it seek an amendment to the Insurance Code to temper the current mandatory requirement or to get authority for the Department to waive the requirement if circumstances warrant. DFPR says it will seek remedial legislation, but not in 2007.

DOL - HOTEL EMPLOYEE REST BREAKS

The Department of Labor proposed prescribing minimum break/meal requirements for hotel room attendants in Cook County. Provisions of the rulemaking, by requiring employers to ensure that rest breaks are taken, exceed the Department's authority under Section 3.1(c) of the One Day Rest in Seven Act. Section 3.1(c) states that every hotel room attendant in Cook County shall receive a minimum of 2 15-minute paid rest breaks and a 30-minute meal period and that the employer cannot require the attendant to work during a break period. It does not say that the employee is obligated to take a break period if he or she voluntarily chooses not to do so and does not mandate that the employer force the taking of a break on an employee, as the proposed rule would do. Additionally, prohibiting the statutorily mandated 15-minute break period from being taken at the beginning or end of the workday or from being combined into a single 30-minute break, restricts employers and employees from voluntarily exercising flexibility in a manner that could be to the employee's benefit. The restriction is not statutorily required and appears to be unduly restrictive without significant benefit. At its 11/06 meeting, JCAR found that this policy posed a threat to the public interest and objected to and prohibited filing of the rulemaking. DOL responded that it will withdraw the rulemaking.

2006
GENERAL RULEMAKINGS
PROPOSED BY THE AGENCY

AGENCY	NUMBER OF RULEMAKINGS
Department of Agriculture	11
Department on Aging	2
Attorney General	1
Capital Development Board	2
Department of Central Management Services	22
Department of Children and Family Services	8
Department of Commerce and Economic Opportunity	5
Illinois Commerce Commission	3
Comptroller	1
Department of Corrections	3
Debt Collection Board	1
Drycleaner Environmental Response Trust Fund Council	3
State Board of Education	23
State Board of Elections	5
Elevator Safety Review Board	1
Environmental Protection Agency	4
Department of Financial and Professional Regulation	33
State Fire Marshal	2
Gaming Board	1
Health Facilities Planning Board	1
Department of Healthcare and Family Services	32
Board of Higher Education	5
Housing Development Authority	3
Department of Human Rights	3
Department of Human Services	19
State Board of Investments	1
Department of Military Affairs	1
Department of Natural Resources	23
Pollution Control Board	11
Property Tax Appeal Board	6
Department of Public Health	21
Illinois Racing Board	11
Department of Revenue	6

Secretary of State	25
State Employees' Retirement System of Illinois	2
Department of State Police	2
State Police Merit Board	3
State Records Commission	1
State Universities Retirement System	4
Student Assistance Commission	18
Teachers' Retirement System	2
Department of Transportation	26
Treasurer	3
Workers' Compensation Commission	1
TOTAL	**361**

2006
GENERAL RULEMAKINGS
CONSIDERED BY JCAR

AGENCY	NUMBER OF RULEMAKINGS
Department of Agriculture	12
Department on Aging	2
Attorney General	2
Carnival-Amusement Safety Board	1
Department of Central Management Services	21
Department of Children and Family Services	8
Department of Commerce and Economic Opportunity	4
Illinois Commerce Commission	1
Department of Corrections	4
Debt Collection Board	1
Drycleaner Environmental Response Trust Fund Council	3
State Board of Education	26
State Board of Elections	7
Emergency Management Agency	4
Department of Employment Security	1
Environmental Protection Agency	4
Department of Financial and Professional Regulation	38
State Fire Marshal	3
Gaming Board	2
Health Facilities Planning Board	5
Department of Healthcare and Family Services	28
Board of Higher Education	3
Housing Development Authority	1
Department of Human Rights	3
Department of Human Services	17
State Board of Investments	1
Department of Labor	7
Law Enforcement Training and Standards Board	1
Department of Natural Resources	22
Pollution Control Board	17
Property Tax Appeal Board	9
Department of Public Health	21

Illinois Racing Board	14
Department of Revenue	8
Secretary of State	12
State Employees' Retirement System of Illinois	1
Department of State Police	1
State Police Merit Board	2
State Universities Retirement System	5
State Toll Highway Authority	3
Student Assistance Commission	18
Teachers' Retirement System	2
Department of Transportation	22
Treasurer	1
Department of Veterans' Affairs	1
Workers' Compensation Commission	1
TOTAL	370

2006
GENERAL RULEMAKINGS:
JCAR ACTION

AGENCY	REC	OBJ	PROHIBIT
Department of Agriculture		2	
Carnival-Amusement Safety Board	1		
Department of Central Management Services		1	
Department of Children and Family Services		3	2
State Board of Education		3	1
Environmental Protection Agency	1		
Department of Financial and Professional Regulation	2	3	1
State Fire Marshal	1		
Health Facilities Planning Board		1	
Department of Healthcare and Family Services	1	1	
Department of Human Services	1	1	
Department of Labor		1	1
Pollution Control Board	2		
Department of Public Health	6	5	
Illinois Racing Board	1	2	
Department of State Police	1		
Teachers' Retirement System	1		
TOTALS	**18**	**23**	**5**

2006
GENERAL RULEMAKINGS:
BASIS FOR JCAR ACTION

Basis for Objection	Number of Objections	Percentage of Total
Statutory Authority/Legislative Intent	7	30%
Policy Not in Rule/IAPA Violation	3	13%
Resulting Regulatory Deficiency	10	43%
Lack of Timely Rulemaking	3	13%
TOTAL	**23**	**100%**

Basis for Recommendation	Number of Recommendations	Percentage of Total
More Timely Rulemaking	5	26%
Further Rulemaking	8	42%
Statutory Authority/Legislative Intent	4	21%
Economic Impact	1	5%
Statutory Clarification Needed	1	5%
TOTAL	**19**	**100%**

Basis for Filing Prohibition	Number of Filing Prohibitions	Percentage of Total
Resulting Regulatory Deficiency	3	60%
Statutory Authority/Legislative Intent	2	40%
TOTAL	**5**	**100%**

2006
EMERGENCY RULEMAKING

Section 5-45 of the Illinois Administrative Procedure Act specifies that agencies may use this short form rulemaking procedure, in which a rule is adopted without prior opportunity for public and JCAR comment, only if the agency finds that an emergency exists that requires the adoption of a rule within fewer days than normally required. The agency must state the emergency situation in writing and make an effort to notify the affected public. An emergency rule becomes effective immediately upon filing with the Secretary of State or at a stated date less than 10 days after filing and is effective for up to 150 days, after which a general rulemaking has to be adopted if the policy is to continue. No emergency rule may be adopted more than once in any 24-month period, with statutorily specified exceptions. While the GA, since 1995, has enacted legislation giving agencies blanket approval for use of emergency rulemaking to implement State budgets, in 2006 that authority was significantly narrowed to apply only to specific rulemakings of the Department of Healthcare and Family Services (see Legislative Activity Relating to JCAR and the IAPA).

CMS - STATE EMPLOYEES GROUP HEALTH PLAN OPT OUT INCENTIVE

The Department of Central Management Services established the Opt Out Incentive for non-Medicare SERS annuitants who elect not to participate in the insurance programs provided by the State Employees Group Insurance Act. At its 11/05 meeting, JCAR objected because, contrary to the IAPA, the rulemaking stated that Department policies, pamphlets and memoranda prevail over governing statute and rules and because the rulemaking fails to specify the amount of the financial incentive to be offered. In response, CMS offered to purge the text relying on external sources and including the amount of the incentive and to eliminate terms and phrases that indicated possible policy directives of the Department not in rule. It also added the specific amount of the financial incentive, i.e., $150 per month.

CMS - PROCUREMENT PROCEDURES

The Department of Central Management Services altered multiple award procurement provisions to permit an agency, when determined in writing by the CMS Director, as Chief Procurement Officer (CPO), to enter into contracts with multiple vendors at a set rate under a process that provides for prequalification and final selection based on equitable distribution of work among qualified vendors. At its 1/06 meeting, JCAR objected because, while CMS described this rule as applying to contracts for information technology (IT) related personal services, nothing in the emergency limited its application to these contracts, as opposed to any State contracts that involve multiple vendors. Additionally, JCAR objected to CMS' use of emergency rulemaking. While CMS used emergency rulemaking because an underlying labor agreement was applicable after 12/31/05, CMS had known for several months that the deadline was approaching. CMS would not have had to use emergency rulemaking if amendments to the Part had been proposed in a timely manner. CMS repealed the rulemaking 3/7/06 and pledged to do better in the future regarding use of the emergency rulemaking procedures. The Department also stated it would work to modify the companion permanent rule to address concerns regarding the exercise of discretionary powers within the rulemaking.

HFS - ILLINOIS CARES Rx

The Department of Healthcare and Family Services combined SeniorCare and Circuit Breaker Pharmaceutical Assistance to form the Illinois Cares Rx Program (Rx) that is comprised of Rx Plus and Rx Basic, with a direct payment and a rebate option for each. HFS omitted adrenocorticol steroids and respiratory enzymes from the drugs covered under the Rx Basic plan. The agency has stated that this was a mistake and that it plans to continue to cover these medications as it did under Circuit Breaker. At its 1/06 meeting, JCAR objected, because statute requires HFS to cover any drugs used to treat the listed diseases. This emergency rule must be amended to include the 2 accidentally omitted classes of drugs and avoid HFS implementation of policy not in rule. HFS modified the rule to include the classes of drugs.

HFS - LONG TERM CARE REIMBURSEMENT

The Department of Healthcare and Family Services, effective 1/1/06, increased Intermediate Care Facility/Mental Retardation, including Skilled Nursing Facility/Under Age 22, reimbursement rates by 2.69% and developmental training rates for those facilities by 3%. At its 1/06 meeting, JCAR objected because HFS had no statutory authority to reduce the statutorily authorized rate increase of 3% to 2.69% in rules. HFS agreed and modified the emergency rule to reflect the 3% figure.

HFS - MEDICAL PAYMENT

This emergency rule allows the Department of Healthcare and Family Services to require prior approval before reimbursement for a brand name prescription drug if the patient is at least 21 years old and has already received 3 brand name prescription drugs in the previous 30 days. Further, the agency may exempt drugs for which no generic therapies exist in the same therapeutic drug class or if it determines that brand name drugs are cost effective. JCAR objected, at its 11/05 meeting, because HFS provided no standards for when it will or will not reimburse for the cost of brand name drugs, resulting in policy undefined in rule. HFS agreed to correct the problem in the companion proposed rules and at the 2/06 JCAR meeting, the proposed rule was considered, with a JCAR Agreement that HFS "will" exempt brand name drugs from prior approval if no generic therapies exist in the same therapeutic class or if HFS determines that brand name drugs are cost effective.

HFS - INSURANCE FOR CHILDREN OF LEGAL ALIENS

The Department of Healthcare and Family Services removed the 5 year waiting period before children of aliens lawfully admitted for permanent residence under the Immigration and Nationality Act and children of parolees temporarily admitted for humanitarian reasons or significant public benefit are eligible for Medical Assistance, including KidCare and All Kids. At its 6/06 meeting, JCAR recommended that HFS seek an amendment to the Public Aid Code [305 ILCS 5/1-11] to state that the 5 year waiting period for medical assistance does not apply to children under 19, as provided by 305 ILCS 5/12-4.35. While Section 12-4.35 supersedes Section 1-11, unless both statutes are read together, Section 1-11 could be misleading. Further, JCAR recommended that in future rulemakings HFS cite as its statutory authority the statute that specifically authorizes or underlies the program or change in rule and not its general rulemaking authority. HFS stated its willingness to support an amendment to 305 ILCS 5/1-11 to add a cross-reference to 305 ILCS 5/12-4.35 to clarify that statute authorizes HFS to establish eligibility for noncitizen children and agreed to be more precise in stating the statutory authority underlying or authorizing its programs in future rulemakings. Although the agency did not respond to the recommendation within the statutory 90 day requirement, which would normally be considered a refusal, it did agree with JCAR's

Recommendation (2 days late). This same Recommendation was issued with respect to the permanent rulemaking replacing this emergency rule, considered at JCAR's 9/06 meeting.

ESRB/OSFM - ILLINOIS ELEVATOR SAFETY RULES

The Elevator Safety Review Board, in cooperation with the Office of the State Fire Marshal, established rules for the design, construction, operation, inspection, testing, maintenance, alteration and repair of elevators, dumbwaiters, escalators, moving sidewalks, platform lifts, stairway chairlifts and automated people movers that require licensing of personnel and businesses that work on these conveyances. At its 9/06 meeting, JCAR recommended that the two agencies, in the future, be more timely in promulgating rules to adhere to statutorily established deadlines. Emergency rules implementing the Elevator Safety and Regulation Act were adopted 8 months after the revised statute became law and, consequently, licensure and registration deadlines were missed. Additionally, JCAR recommended that the Board and the Office seek an amendment to the Act to extend the statutory limits on the opportunity to license by grandfathering. OSFM and ESRB agreed to be more timely with future rulemakings and are determining the Board's course of action regarding a legislative remedy to the issue of grandfathering.

ISP - REGISTRATION OF CHILD MURDERERS AND VIOLENT OFFENDERS AGAINST YOUTH

The Illinois State Police required violent offenders against youth to register under the Sex Offender Registration Act until the Violent Offenders Against Youth Registration Act can be implemented. At its 9/06 meeting, JCAR recommended that DSP act as soon as possible to follow the **statutory mandate that a separate** Child Murderer and Violent Offenders Against Youth Registry be created. The Act gives ISP up to 12 months (6/27/07) to create the new registry. No statutory authority exists for ISP to compel violent offenders against youth to register with the Sex Offender Registry as an interim measure. ISP responded that it will comply, but did not give a time frame.

CMS - PAY PLAN

The Department of Central Management Services proposed adding interim assignment pay for certified, non-bargaining-unit employees in a salary-grade position who are assigned to work in either a salary-grade position or a merit-compensation position on a full-time, interim basis and are accountable for higher-level duties and responsibilities. JCAR objected, at its 11/06 meeting, because the rulemaking violated Section 5-45(c) of the IAPA, which states that an agency cannot adopt the same emergency rule more than once in any 24-month period. CMS adopted an emergency rule on 7/1/06, portions of which are substantially similar to this emergency rule adopted 10/3/06. CMS has yet to respond.

DCEO - RIVER EDGE REDEVELOPMENT ZONE PROGRAM

The Department of Commerce and Economic Opportunity proposed allowing the Cities of Rockford, East St. Louis and Aurora to begin cost-effective re-use of environmentally challenged property adjoining a river. At its 12/06 meeting, JCAR objected because, in allowing a county to designate zones and to take action to decertify zones, the Department has exceeded its statutory authority. DCEO has yet to respond.

2006
EMERGENCY RULEMAKINGS
ADOPTED BY THE AGENCY

AGENCY	NUMBER OF RULEMAKINGS
Department of Agriculture	1
Department on Aging	2
Capital Development Board	2
Department of Central Management Services	5
Department of Children and Family Services	1
Department of Commerce and Economic Opportunity	3
State Board of Education	4
Elevator Safety Review Board	1
Department of Financial and Professional Regulation	4
State Fire Marshal	2
Department of Healthcare and Family Services	24
Board of Higher Education	2
Department of Human Services	3
Department of Natural Resources	1
Illinois Racing Board	1
Secretary of State	4
Department of State Police	1
Workers' Compensation Commission	1
TOTAL	**62**

2006
EMERGENCY RULEMAKINGS
CONSIDERED BY JCAR

AGENCY	NUMBER OF RULEMAKINGS
Department of Agriculture	1
Department on Aging	2
Capital Development Board	2
Department of Central Management Services	8
Department of Children and Family Services	1
Department of Commerce and Economic Opportunity	4
State Board of Education	4
Elevator Safety Review Board	1
Department of Financial and Professional Regulation	4
Fire Marshal	2
Gaming Board	1
Department of Healthcare and Family Services	22
Board of Higher Education	3
Department of Human Services	3
Department of Natural Resources	1
Illinois Racing Board	1
Secretary of State	4
Workers' Compensation Commission	1
TOTAL	65

2006
EMERGENCY RULEMAKINGS:
JCAR ACTION

AGENCY	REC	OBJ	SUSPENSION
Department of Central Management Services	1	3	
Department of Commerce and Economic Opportunity		1	
State Board of Education		1	
Elevator Safety Review Board	1		
Department of Healthcare and Family Services	1	2	
Department of Human Services		2	
Department of State Police	1		
Secretary of State		1	
TOTALS	**4**	**10**	**0**

2006
EMERGENCY RULEMAKINGS:
BASIS FOR JCAR ACTION

Basis for Objection	Number of Objections	Percentage of Total
Agency Created Emergency	3	30%
Statutory Authority/Legislative Intent	4	40%
IAPA Violation	1	10%
Resulting Regulatory Deficiency	1	10%
Policy Not in Rule	1	10%
TOTAL	**10**	**100%**

Basis for Recommendation	Number of Recommendations	Percentage of Total
Further Rulemaking	1	20%
More Timely Rulemaking	2	40%
Statutory Clarification Needed	2	40%
TOTAL	**5**	**100%**

Basis for Suspension	Number of Suspensions	Percentage of Total
None		
TOTAL	**0**	**0%**

2006
PEREMPTORY & EXEMPT RULEMAKING

Section 5-50 of the Administrative Procedure Act specifies that agencies may use this short form of rulemaking procedure, in which the rule is adopted without prior opportunity for public and JCAR comment, only if the rulemaking is required by federal law, federal regulations, court orders or collective bargaining agreements and if the agency cannot exercise any discretion with respect to the rule content. Agencies must file the peremptory rule with the Secretary of State within 30 days after the change in rules is required.

Exempt rulemaking is a specialized form of rulemaking, similar to the peremptory rulemaking process, reserved for use by the Pollution Control Board (PCB) under the Environmental Protection Act. PCB can use this short form procedure only to adopt Illinois regulations that are "identical in substance" to mandated federal regulations.

CMS - PAY PLAN

Department of Central Management Services increased salaries for teachers of the deaf (Jacksonville). In the additional adjustment for bilingual/sign language teachers, bilingual teachers who can sign receive only a percentage of the adjustment available to those who can only sign or who are only bilingual, based on their level of competency at signing. At its 10/05 meeting, JCAR recommended that CMS review the policy established in its peremptory rule and clarify the provisions relating to salary adjustments for teachers of the deaf at the Illinois School for the Deaf in Jacksonville who are proficient in sign language and/or are bilingual. CMS submitted to JCAR a list of modifications that it will make in a proposed rulemaking that clarifies provisions relating to salary adjustments for teachers who are both proficient in sign language and bilingual.

DHS - WIC VENDOR MANAGEMENT CODE

Department of Human Services adopted a rulemaking that reflected a variety of federal changes designed to contain Women's, Infant's and Children's Program (WIC) costs. At its 10/06 meeting, JCAR objected to DHS using peremptory rulemaking because it failed to meet the 2 standards specified under Section 5-50 of the IAPA for the use of peremptory rulemaking. Statute allows peremptory rulemaking under conditions "that preclude compliance with the general rulemaking requirements" and "that preclude the exercise of discretion by the agency as to the content of the rule it is required to adopt". In this instance, the underlying federal regulations were initially adopted in 12/05 and released from a temporary restraining order in 2/06, allowing the agency ample time to propose and adopt a general rulemaking before this peremptory's 9/1/06 effective date. Additionally, both the federal regulations and the USDA Food and Nutrition Service guidance documents allow states a considerable amount of discretion in how this program is to be implemented. DHS agreed and pledged to avoid such mishaps in the future.

2006
PEREMPTORY & EXEMPT RULEMAKINGS
ADOPTED BY THE AGENCY

AGENCY	NUMBER OF RULEMAKINGS
Department of Agriculture	2
Department of Central Management Services	13
Department of Human Services	2
Pollution Control Board	25
TOTAL	42

2006
PEREMPTORY & EXEMPT RULEMAKINGS CONSIDERED BY JCAR

AGENCY	NUMBER OF RULEMAKINGS
Department of Agriculture	4
Department of Central Management Services	13
Department of Children and Family Services	2
Department of Human Services	2
Pollution Control Board	16
TOTAL	37

2006
PEREMPTORY & EXEMPT RULEMAKINGS:
JCAR ACTION

AGENCY	REC	OBJ	SUSPENSION
Department of Human Services		1	
TOTAL	**0**	**1**	**0**

2006
PEREMPTORY & EXEMPT RULEMAKINGS: BASIS FOR JCAR ACTION

Basis for Objection	Number of Objections	Percentage of Total
Undue Use of Peremptory Rulemaking	1	100%
TOTAL	**1**	**100%**

Basis for Recommendation	Number of Recommendations	Percentage of Total
None		
TOTAL	**0**	**0%**

Basis for Suspension	Number of Suspensions	Percentage of Total
None		
TOTAL	**0**	**0%**

2006
JCAR ASSESSMENT OF APPROPRIATENESS OF AGENCY RESPONSE TO JCAR ACTION

AGENCY	ASSESSMENT				
	APPROPRIATE	FAILURE TO REMEDY	JOINT RESOLUTION	JCAR WILL MONITOR	NO COMMENT
Department of Agriculture	1	1		1	
Carnival-Safety Amusement Board	1			1	
Department of Central Management Services	8			3	
Department of Children and Family Services	3			1	
State Board of Education	5			1	
Elevator Safety Review Board	1			1	
Department of Employment Security	1			1	
Department of Financial and Professional Regulation	1	3			
State Fire Marshal	1				
Health Facilities Planning Board	1			1	
Department of Healthcare and Family Services	4	1		1	
Department of Human Services	4			1	
Pollution Control Board	2	1			
Department of Public Health	6	1			
Illinois Racing Board	3				
Secretary of State	1				
Department of State Police	1			1	
State Universities Retirement System	1			1	
Department of Veterans' Affairs				1	
TOTAL	45	7	0	15	0

Rule Deficiencies

At its 5/06 meeting, the Committee moved to send letters to the Department of Public Health, Department of Healthcare and Family Services, Department of Central Management Services, Office of the State Fire Marshal, and the State Board of Education notifying these agencies of a JCAR perceived lack of sufficient rules for programs affecting stem cell grants (DPH), State employee group insurance (HFS and CMS), elevator safety (OSFM) and foreign language and arts grants (SBE).

DPH responded that it does not plan to initiate rulemaking governing these grants. DPH maintained that it has authority to award and distribute these grants under the broad "grant making authority" in the DPH Powers and Duties Law. Additionally, DPH stated that this issue was the subject of litigation in Cook County where the circuit court determined that rules were not required. Moreover, DPH stated that no provision in the IAPA or other statutes requires grant programs be governed by rulemaking. At its meeting on 7/11/06, JCAR objected to DPH awarding grants to medical research facilities for stem cell research without adopting rules addressing eligibility requirements, application procedures, monitoring criteria and other general program standards. The grant process affected individuals outside the Department, thus rulemaking is required under the IAPA. DPH responded to the Objection by reiterating its earlier arguments and supplying additional information concerning its procedures for issuing grants, the persons receiving grants, and composition of the Illinois Regenerative Medicine Institute (IMRI) panel that evaluated the grant applications. DPH further noted that neither DPH nor IMRI has received any additional funding in FY07 for stem cell research; however, HFS funds will be used for this purpose. JCAR issued a Notice of Failure to Remedy.

HFS and **CMS** were jointly delegated responsibility by Executive Order 2005-08 for implementing a portion of the State Employees Group Insurance program. In 6/06 CMS responded that it would be promulgating rules on its portion of the program by 9/1/06, but has failed to do so. HFS proposed its rules 11/3/06.

The Elevator Safety & Regulation Act requires all elevator mechanics, contractors and inspectors to be licensed with **OSFM** by 7/1/06. Statute also establishes a 5/1/06 deadline for applying for licensure by grandfathering, but no rules were in place prescribing a process for applying. Without grandfathering, all license applicants would have to pass an exam unless they completed an accredited apprenticeship or were licensed in another state. OSFM replied that it would adopt emergency rules (and did so 7/21/06) and is determining its course of action regarding a legislative remedy to the issue of grandfathering.

SBE adopted rules governing the issuance of foreign language and arts grants on 10/23/06.

Recommended Legislative Action

Rulemakings considered by JCAR occasionally engender JCAR Objections or Recommendations based on lack of clear statutory authority, or engender written agreements with agencies to pursue legislation to clarify statute, resolve ambiguities or seek specific statutory authority. The following are several instances in which such occurred during 2006.

The **Department of Financial and Professional Regulation** proposed revising required contract language between HMOs and managed care organizations and providers, including a required hold harmless clause that all capitated provider agreements shall contain after 1/1/07. The clause states that the provider agrees that, in case of HMO default on payment for services, the provider will not seek payment from individual enrollees, except for co-payments or deductibles not covered by the HMO. At its 1/06 meeting, JCAR objected because DFPR lacks statutory authority to require a contractual provision that bars individual health care providers from seeking monetary recovery for services from any HMO enrollee in the event the HMO becomes insolvent. DFPR refused to withdraw or modify the provision, citing its general authority to promulgate rules for minimum standards of coverage and authority to withhold approval of policy provisions that are unjust, unfair, etc. However, while Section 2-8 of the HMO Act expressly requires such a hold harmless clause to be included in provider agreements with hospitals, no such statutory authority affects other medical providers.

The **Teachers' Retirement System** proposed instituting procedures for a special election if more than 6 months are remaining in a vacated trustee term. JCAR recommended that TRS should seek specific statutory authority to not hold a special election if there is inadequate time remaining in the vacant term to allow the newly elected Board member to participate in at least one regularly scheduled Board meeting. TRS agreed and will pursue legislation.

The **Department of Agriculture** proposed allowing cattle classified as reactors to the official brucellosis test performed at an auction market to be returned to the farm of origin and placed under quarantine until the animal's status is officially determined, instead of being placed in a quarantine pen and sold for immediate slaughter. By allowing livestock testing positive for brucellosis at market to be returned to their point of origin, the rulemaking conflicts with Section 5 of the Illinois Bovine Brucellosis Eradication Act and with 8 Ill. Adm. Code 85.40 (Diseased Animals). JCAR's Objection noted that if the Department believes that allowing these animals to be returned to the point of origin is advisable, it should seek an amendment to the statute allowing this option. DOA acknowledged that clarification of the Bovine Brucellosis Act is needed with respect to suspect or reactor animals identified at a stockyard or auction market.

The **Health Facilities Planning Board** proposed requiring health care facilities to provide periodic reports, data and information to HFPB about capital expenditures, health planning, and reduction or temporary suspension of services. The rulemaking allows DPH to extend by 60 days the 120-day time limit on its review of a permit request. The Illinois Health Facilities Planning Act [20 ICLS 3960/8] allows only the permit applicant, not DPH, to seek an extension of the statutory 120-day cap on the review period. The agency agreed that extending the time limit for permit request review is best addressed through a statutory change and has indicated that it will pursue legislation.

The **Department of Healthcare and Family Services,** through emergency rulemaking, removed the 5-year waiting period before children of aliens lawfully admitted for permanent residence under the Immigration and Nationality Act and children of parolees temporarily admitted for humanitarian reasons or significant public benefit are eligible for Medical Assistance, including KidCare and All Kids. JCAR recommended that HFS seek an amendment to the Public Aid Code [305 ILCS 5/1-11] to state that the 5-year waiting period for medical assistance does not apply to children under 19, as provided by 305 ILCS 5/12-4.35. While Section 12-4.35 supersedes Section 1-11, unless both statutes are read together, Section 1-11 could be misleading. HFS stated its willingness to support an amendment to add a cross-reference to 305 ILCS 5/12-4.35 to clarify that statute.

The **State Universities Civil Service System** proposed updating employee discharge hearing procedures. JCAR recommended that the System seek legislation modifying the State Universities Civil Service Act to permit statutory hearings to be conducted by a hearing officer instead of a hearing board. The System agreed.

The **Department of Financial and Professional Regulation** proposed requiring insurers to offer quarterly installment payments if annual premiums exceed $500 and giving the insurer the option of offering quarterly payments if premiums are less than $500. The Insurance Code requires every company offering medical liability insurance in Illinois to offer each of its medical liability insureds the option to make premium payments in quarterly installments. JCAR recommended that, if the Department believed it prudent to exempt insurers from the statutory requirement in some instances, it seek an amendment to the Insurance Code to temper the current mandatory requirement or to get authority for the Department to waive the requirement if circumstances warrant. DFPR responded that it would seek legislation for this purpose, but later verbally indicated it will not do so in the 2007 session.

The **Elevator Safety Review Board**, in cooperation with the **Office of the State Fire Marshal**, established rules for the design, construction, operation, inspection, testing, maintenance, alteration and repair of elevators, dumbwaiters, escalators, moving sidewalks, platform lifts, stairway chairlifts and automated people movers that require licensing of personnel and businesses that work on these conveyances. JCAR recommended that the Board and the Office seek an amendment to the Elevator Safety and Regulation Act to extend the statutory limits on the opportunity to license by grandfathering. OSFM and ESRB are determining the Board's course of action regarding a legislative remedy to the issue of grandfathering.

The **Department of Commerce and Economic Opportunity** proposed allowing Rockford, East St. Louis and Aurora to begin cost-effective re-use of environmentally challenged property adjoining a river. JCAR objected because, in allowing a county to designate zones and to take action to decertify zones, the Department exceeded its statutory authority. DCEO responded by modifying the emergency rule to make it consistent with statute.

Public Act Review

Section 5-105 of the Illinois Administrative Procedure Act [5 ILCS 100/5-105] requires JCAR to maintain a review program to monitor the implementation of new laws and changes in law through State agency rulemaking activities. The Committee fulfills this statutory obligation through its Public Act review program.

Under this program, Committee staff reviews each new Public Act and makes a preliminary determination as to whether rulemaking might be necessary for proper implementation. After the list has been culled of those obviously not requiring rulemaking (appropriations, criminal and civil law, local government issues), the affected State agency is contacted for its opinion. If necessary, these written contacts are followed up with discussion between JCAR and the agency.

The final list of Public Acts for which JCAR and the agency agree that rulemaking is warranted is then monitored by the Committee as long as necessary to insure that progress is made toward implementation. The primary goal of the Committee in this program is to ensure that appropriate rules are put into effect in a timely manner, as required by Section 5-105 of the IAPA.

If suitable progress is not made, JCAR, by the vote of a majority of its members, can initiate an investigation into existing rules of the agency. If, after the agency's appearance before the Committee to explain its failure to adopt anticipated rules, the JCAR members are not satisfied with the agency response, the Committee can object to the agency's conduct and may initiate further legislation to clarify the issue.

Frequently an agency is prompted to complete necessary rulemaking by conversation with JCAR or the agency enters voluntarily into written Agreements with JCAR to more thoroughly implement statutory requirements. At other times, JCAR votes a Recommendation or Objection based on a need for additional rulemaking.

JCAR aggressively follows its statutory mandate to monitor the implementation of Public Acts. However, the Committee is seldom required to press an agency to implement a new Public Act. Agencies generally respond to JCAR inquiries that they agree rulemaking is necessary and by stating an approximate date for commencement of rulemaking activity. In some instances, they offer valid responses as to why rulemaking will not be necessary. Occasionally, the JCAR inquiry brings to an agency's attention a Public Act relating to its programs that had escaped its notice. The Public Act review program can be helpful to both the legislature and the agencies in meeting their obligation to put the laws of the State of Illinois into effect in a timely and effective manner.

Special Review of ADA Procedures

JCAR recently audited the rules of all agencies to determine whether the agency had adopted the Americans With Disabilities Act Grievance Procedures required by federal law. 28 CFR 35.107 requires all agencies of state government employing at least 50 persons to adopt rules governing the grievance procedure. The following 21 agencies appeared to have no ADA rules and were contacted to determine whether the agency had a valid reason for considering itself exempt from the federal mandate:

Department on Aging
Department of Children and Family Services
State Board of Education
State Board of Elections
Emergency Management Agency
Department of Financial and Professional Regulation
Gaming Board
Governor's Office of Management and Budget
Historic Preservation Authority
Department of Human Rights
Department of Labor
Department of Military Affairs
Department of Public Aid
Department Public Health
Racing Board
State Employees' Retirement System
Department of State Police
State Toll Highway Authority
State Universities Retirement System
Student Assistance Commission
Teachers' Retirement System

Thirteen agencies were prompted to adopt ADA rules and 2 others responded that they do not meet the 50 employee threshold. Those that still have not responded include:

Department on Aging
State Board of Elections
Emergency Management Agency
Governor's Office of Management and Budget
Department of State Police
Teachers' Retirement System

Complaint Review Program

The Illinois Administrative Procedure Act authorizes JCAR to review and investigate the rulemaking activities of State agencies when it receives a written complaint.

JCAR operates its complaint review program under Part 260 of its operational rules. Complaints may address one or more of the following: an existing rule of an agency; failure of an agency to fully or properly enforce its rules; absence of rules required by statute or necessary for the proper conduct of an agency program or function; and an agency rule that is applied, but not embodied in the rules of the agency promulgated pursuant to the IAPA.

Upon a receipt of a complaint, JCAR initiates a review to determine the need for a full investigation. Staff may raise questions or problems to discuss with the agency and will attempt to inform the agency of the substance of the complaint and any proposals for JCAR action prior to the meeting. Staff will report the results of the review and a proposal for action at a JCAR monthly meeting. A complaint may be placed on the agenda for a JCAR meeting by any JCAR member or the Executive Director if evidence exists that there are possible problems with the rules. If the same issues have been previously considered by JCAR, a complaint will not be placed on the agenda, unless the complaint reveals information not available to JCAR at the time the issue was considered and, if the information were available, it would have altered the outcome. Based on the complaint, JCAR may issue an Objection or Recommendation to existing rule, or to agency failure to maintain adequate rule, and afford the agency an opportunity to respond.

Complaints should be forwarded to the Executive Director of the Joint Committee at:

Joint Committee on Administrative Rules
700 Stratton Building
Springfield, Illinois 62706

Legislative Activity Relating to JCAR and the IAPA

JCAR reviews any proposed legislation that amends the Illinois Administrative Procedure Act (IAPA) and brings to agencies' attention any resulting changes in rulemaking procedures. Legislation involving issues that have recently come before JCAR is also followed. Under its IAPA mandate to continually seek to improve the rulemaking process, JCAR occasionally initiates legislation revising the IAPA. It also may propose legislation when rules review brings attention to a statutory insufficiency or lack of clarity or to enforce its Objections or Recommendations when an agency has refused to adhere to those Objections or Recommendations. The following summary of legislation affecting JCAR and the rulemaking process covers the 2nd year of the 94th General Assembly (2006).

PA 94-838 (effective 6/6/06) amends Section 5-45 of the IAPA to allow the Department of Healthcare and Family Services (HFS) to adopt emergency rules during fiscal year 2007 (FY07), including rules effective 7/1/07, to the extent necessary to administer its responsibilities with respect to amendments and waivers to the State plans and Illinois waivers approved by the federal Centers for Medicare and Medicaid Services necessitated by the requirements of Title XIX and Title XXI of the federal Social Security Act, in order to provide for the expeditious and timely implementation of the provisions of the State's FY07 budget. Also, in new Section 5-46.2 of the IAPA added by PA 94-838, in order to provide for the timely and expeditious implementation of the federally approved amendment to the State Medicaid Plan, HFS may use emergency rulemaking to adopt rules necessary to implement changes resulting from that amendment to the hospital access improvement payments authorized by Public Act 94-242 and the Public Aid Code. This emergency rulemaking authority is granted by, and may be exercised only during, the 94th General Assembly. Unlike similar grants of emergency rulemaking authority to implement budget provisions in the past, PA 94-838 does not preclude JCAR's option to suspend such an emergency rule, nor does it remove the prohibition against adopting two or more emergency rules having substantially the same purpose and effect in any 24-month period. Thus, the emergency rulemaking provisions of PA 94-838 are more narrow in scope than emergency rulemaking exemptions passed in previous years.

Judicial Activity Relating To JCAR And IAPA

Since JCAR's function is closely related to the interpretation of the Illinois Administrative Procedure Act (IAPA), it monitors and reports on court decisions and Attorney General opinions that affect the interpretation of the Act. One of the enumerated responsibilities of JCAR under the Act is "to study the impact of legislative changes, court rulings and administrative action on agency rules and rulemaking" [5 ILCS 100/5-105(c)]. This summary highlights significant judicial actions since enactment of the IAPA and discusses current activity.

KEY INTERPRETATIONS OF THE IAPA

- Two past decisions construing the IAPA in accordance with positions supported by JCAR are especially noteworthy. The cases involved an attempt by the Department of Public Aid to change the method by which it calculated Medicaid payments to nursing homes. In the first case, *Senn Park I (Senn Park Nursing Center v. Miller*, 118 Ill. App. 3d 504, 455 N.E.2d 153, 74 Ill. Dec. 123 (1983)), the First District Appellate Court held that DPA's failure to follow the IAPA rulemaking procedures invalidated a new method it utilized for calculating Medicaid payments. The court stated that the definition of a "rule" found in Sec. 1-70 of the IAPA should be broadly construed in order to safeguard the public's right to comment on proposed agency policies. DPA's change in calculating the Medicaid payments, the court ruled, fell within the Sec. 1-70 definition of rule since it was a statement of general agency policy. As that policy was not adopted in compliance with the IAPA, it was invalid.

  DPA argued that the amended procedure was exempt from the notice and publication requirements by Sec. 5-35(c) of the IAPA because the State Plan was a contractual arrangement with the federal government, and was exempt under the contracts exception of the IAPA. Sec. 5-35(c) states that: "The notice and publication requirements of this Section do not apply to a matter relating solely to agency management...or to public property, loans or contracts."

  JCAR filed an amicus brief with the Illinois Supreme Court arguing that the inflation update procedure did not fall within the contracts exception. The Supreme Court agreed with the appellate court's interpretation of the contracts exception in which the lower court stated:

  We are persuaded that under the IAPA, as under the Federal APA, a matter comes under the contract exception only when contracts are clearly and directly involved.... We believe that with regard to nursing homes, contracts, whether State-Federal or agency-provider, are not clearly and directly involved.... Accordingly, we conclude that the amended inflation update procedure is not a matter relating to contracts within the meaning of the IAPA. (118 Ill. App. 3d at 511)

  The Supreme Court also stated that it is clear that the rulemaking procedure is intended to give interested persons an opportunity to submit their views and comments on rulemaking changes and that an agency must consider all submissions received. The court acknowledged that there are

certain statutory exceptions to the notice and comment procedures, but that exceptions are of a limited nature and should be appropriately applied.

The court also agreed with the appellate court ruling that the amended inflation update procedure fell within the purview of the IAPA because the Public Aid Code incorporates the IAPA and the Code specifically requires rulemaking pursuant to the IAPA "during the process of establishing the payment rate for skilled nursing and intermediate care services, or when a substantial change in rates is proposed," in order to provide "an opportunity for public review and comment on the proposed rates prior to their becoming effective". [305 ILCS 5/5-5.7] (118 Ill. App. 3d at 512) The court found that the amended procedure fell within the definition of "rule" found in the IAPA and thus the failure of DPA to follow the notice and comment procedures required by the IAPA rendered the amended procedure invalid.

Following the decision of the appellate court in *Senn Park I*, DPA promulgated Emergency Rule 4.14221 implementing the amended inflation update procedure pursuant to the IAPA. Plaintiffs sought a declaratory judgment, asking the court to declare Emergency Rule 4.14221 void because there was no "emergency" as that term is defined in the IAPA. On 12/30/80, DPA withdrew the emergency rule. On appeal, the appellate court held that although the rule was withdrawn, the validity of the rule was at issue in order to determine the amount of reimbursement the plaintiffs were entitled to in *Senn Park I*. The appellate court further held that the circuit court had erred in finding the emergency rule valid because there was no emergency as that term is defined under the IAPA.

- In *Sleeth v. Illinois Department of Public Aid* (125 Ill. App. 3d 847, 466 N.E.2d 703, 81 Ill. Dec. 117 (1984)), the Third District Appellate Court considered an appeal from a DPA decision to terminate disability benefits in 5 cases. The court found that the procedure utilized by the Department (Manual Release No. 83.5), which required applicants who were denied disability benefits to submit proof of disability within 14 days after the filing of appeal, was a "rule" under the IAPA. The IAPA states:

> "Rule" means each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy, but does not include (i) statements concerning only the internal management of an Agency and not affecting private rights or procedures available to persons or entities outside the Agency, (ii) informal advisory rulings issued under Section 5-150, (iii) intra-agency memoranda, (iv) the prescription of standardized forms, or (v) documents prepared or filed or actions taken by the Legislative Reference Bureau under Section 5.04 of the Legislative Reference Bureau Act.

DPA contended the Manual Release was merely an intra-office memorandum, not subject to the IAPA. The court reasoned that the memorandum affected private rights and procedures available to persons outside DPA and that this type of statement by an agency is specifically included within the definition of "rule" under the Act. Since the memorandum was not properly promulgated pursuant to the IAPA, the court held the rule invalid and determined that the procedures followed by DPA violated State law.

- In *Kaufman Grain Co., Inc. v. Director, Department of Agriculture* (179 Ill. App. 3d 1040, 534 N.E.2d 1259, 128 Ill. Dec. 654 (1989)), the Fourth District Appellate Court held that DOA had no statute or rule that allowed it to settle disputes between a grain producer and a grain dealer or a grain warehouse. DOA improperly relied on policy that was not properly promulgated as rules in accordance with the IAPA and, therefore, was without authority to adjudicate such grain disputes. The *Kaufman* case is significant for the ruling of the court concerning attorney's fees. Sec. 10-55 of the IAPA provides that, in any case in which a party has any administrative rule invalidated by a court for any reason, the court shall award the party bringing the action the reasonable expenses of the litigation, including reasonable attorney's fees. The appellate court ruled that Kaufman was entitled to the award of attorney's fees it reasonably incurred in this litigation, including the fees incurred in the proceedings before the Department. The court stated that Sec. 10-55 of the IAPA gives those subject to regulation an incentive to oppose doubtful rules where compliance would otherwise be less costly than litigation. Therefore, the court awarded fees for the proceedings before DOA, as well as fees incurred in administrative review proceedings, noting that proceedings before an administrative agency are quite often more costly and time consuming than administrative review proceedings. The *Kaufman* case illustrated trends of the courts to rule unfavorably against agencies that have not promulgated their policies properly under the IAPA. The *Kaufman* decision specifically cites Senn Park and further strengthens the precedent it established. Award of attorney's fees was further strengthened in *Citizens Org. Proj. v. Dept. of Nat. Res.*, (89 Ill. 2nd 593, 725 N.E.2d 195, 244 Ill. Dec 896 (2000)), in which the Supreme Court affirmed the award of attorney's fees and litigation expenses where a citizen group obtained invalidation of a DNR rule governing a DNR permit decision.

- In *Coronet Insurance Company v. John E. Washburn, Director of Insurance of the State of Illinois* (201 Ill. App. 3d 633, 558 N.E.2d 1307, 146 Ill. Dec. 973 (1990)), the First District Appellate Court of Illinois held that an administrative agency may enact rules and regulations as limited by the authorizing statutory language; that an administrative rule carries with it the same presumption of validity as the statute; and a rule that is consistent with the spirit of the statute and furthers its purpose will be sustained. The appellate court also ruled that DOI's failure to give at least 45 days notice of a proposed rule to the general public did not constitute violation of the IAPA, since the Act provides that changes in the text of a proposed rule may be made during the First Notice period and that such changes need not be published again prior to submission to JCAR.

- In *CIPS v. Illinois Commerce Commission* (268 Ill. App. 3d 471, 644 N.E. 2d 817, 206 Ill. Dec. 49 (1994)), the Fourth District Appellate Court ruled that JCAR did not create an impermissible filing prohibition when it informed ICC it would lift its filing prohibition on a proposed rule formulating rental rates for cable TV attachments to utility poles if the ICC removed allocation of the portion of pole neutral space to cable television.

- In *Weyland v. Manning* (309 Ill. App. 3d 542, 723 N.E.2d 387, 243 Ill. Dec. 355 (2000)), plaintiffs filed an action contesting a rule adopted by the Department of Natural Resources establishing a restricted boating zone on Griswold Lake. One element at issue was the adequacy of the Second Notice filed by DNR with JCAR. The Second District Appellate Court held that DNR complied with JCAR rule requirements that it list and analyze all comments concerning the rule and that its failure to list in the Second Notice persons who had requested a public hearing did not invalidate the rule.

- Payday Lending Rules: The regulation of short term (payday or cash for car title) loans involved rules ultimately adopted by the Department of Financial Institutions and/or Office of Banks and Real Estate:

  After JCAR Objection and after a Filing Prohibition expired, DFI adopted rules regulating the payday loan/cash for car title industries that were immediately challenged in *South 51 Development Corp, et al., v. Vega* (335 Ill.App.3d 542, 269 N.E.2nd 528 (2002). The chief argument of plaintiffs was that there was an improper delegation of rulemaking authority to DFI. The court held that there was a valid delegation of legislative authority (the statute on which the rulemaking was based was somewhat sparse) and that the small business impact analysis performed at the time by DCEO (then DCCA) was facially sufficient, albeit not submitted to JCAR by the end of the first notice period.

- *Corey H. v. Board of Education of City of Chicago* (No. 92–C-3409, U.S. District Court for the Northern District of Illinois, Eastern Division). In 1992, disabled students brought an action against the Chicago Board of Education and State Board of Education alleging systemic failures to educate children with disabilities in the least restrictive environment (LRE), as required by the federal Individuals with Disabilities Education Act (IDEA). SBE and CBE entered into a settlement agreement with the plaintiffs. Under the settlement agreement, Judge Gettleman ordered SBE to change its policy on certification structure and standards for special education teachers through peremptory rulemaking. SBE filed 2 peremptory rulemakings to change special education teacher certification endorsement and create common core standards for all teachers. The first peremptory rule (titled Certification; 23 Ill. Adm. Code 25; 24 Ill. Reg. 16109) was objected to by JCAR on 11/14/00. SBE refused to withdraw the peremptory rule, stating it was not in a position to do so because it was under a federal judges order. The rule was then suspended by JCAR on 2/21/01. The second peremptory rule (Standards for Certification in Special Education; 23 Ill. Adm. Code 28; 24 Ill. Reg. 16738) was objected to and suspended by JCAR on 1/9/01. SBE did not respond. On 2/27/01, Judge Gettleman ordered SBE to implement both rulemakings, regardless of the JCAR suspensions.

  Pursuant to IAPA requirements, SJR 26 was introduced in the General Assembly to continue the 2 suspensions. (Sec. 5-125 of the IAPA states that if a joint resolution passes both houses of the General Assembly within the 180 days of the JCAR suspension, the rule will be considered repealed and the Secretary of State must immediately remove the rule from the collection of the effective rules.) SJR 26 passed the Senate on 5/21/01 with a vote of 56-0-0 and passed the House on 5/31/01 with a vote of 117-0-0. This was the first time a joint resolution of this nature has passed both houses of the GA. As directed by Judge Gettleman, SBE implemented the settlement order as agency policy outside rule.

  Downstate special education teachers and students then filed a motion to intervene, to allow them input into the teacher certification policies that will be effective statewide (*Reid L. v. Illinois State Board of Education and Corey H., No. 01-C-4180*). Judge Gettleman denied the Reid request. The U.S. Seventh Circuit Court of Appeals affirmed the district court. In the interim, the G.A. adopted PA 92-79 addressing many of these issues. Further litigation may result.

- In *Baker v. Adams et al.* (No. 02-CH-15962), the plaintiffs, James Baker and Roy Faust, among other things, requested that the court find Department of Human Services (DHS) Program Directive #02.01.01.020, governing the use of computers and related equipment in all DHS mental health and developmental disability (MH/DD) facilities, invalid because it was rule not properly promulgated according to the IAPA. The plaintiffs were Illinois residents currently confined at the Elgin Mental Health Center after being found not guilty by reason of insanity.

  The directive in part specifically stated that individuals in a forensic program were not allowed to possess modems. Any computers with modems were to be removed or disabled. Internet access was allowed only through computers in the library or educational programs. The plaintiffs contended they were harmed as a result of not being allowed to communicate with others (e.g., friends, family and attorneys) via a computer (i.e., using a modem to access e-mail) and to order items off the Internet that required one giving an e-mail address. Additionally, Mr. Baker had been accepted into DePaul University's online undergraduate program, but was informed that since he lacked e-mail, he would not be able to participate in the program.

  The court ruled the portion of the Program Directive prohibiting residents of any forensic program from possessing a modem was a rule promulgated in violation of the IAPA. The court also ruled invalid the provisions in the directive restricting the ability of recipients to freely send and receive computer disks. As a result, DHS adopted emergency rules, effective 12/26/04, to create a new Part governing the use of computers and related equipment in all DHS MH/DD facilities, thus codifying the former Program Directive into rule. A matching proposed rule was also proposed in early 2004.

RECENT JUDICIAL ACTION AND LITIGATION

- *Gray v. Hartke, Kolaz and Department of Agriculture* (03MR374). In 2003, Illinois State Fair officials stripped Mongo (a 1,294 pound steer) of his championship title after learning that his owners had given him banned medicine to treat a sore hoof. The top prize was awarded to the runner-up.

  In February 2004, a Sangamon County Circuit judge ruled that the steer's disqualification should be reversed because fair officials failed to follow the proper procedure in setting out the rules for livestock competition (that premium book requirements be adopted as official rules). The Grays then filed an amended complaint, alleging a due process violation. In April 2006, the 4th District Illinois Appellate Court upheld the circuit judge's ruling on the amended complaint.

  SB 3197/PA 93-1055, effective 11/23/04, requires DOA to make available premium books or other publications that establish the kinds and classes of events or exhibits, rules, conditions, instructions, directives, and requirements for contests at fairs. It makes these materials exempt from the IAPA's rulemaking procedures.

- In *Department of Professional Regulation of the State of Illinois v. AdoreAble Productions* (No. 04-CH-138), DPR requested a restraining order in the 17th Circuit Court (Winnebago County) attempting to prevent AdoreAble Productions from holding its Toughman event scheduled in Rockford, Illinois on February 27-28, 2004.

DPR had adopted an emergency rule that banned ultimate fighting exhibitions, including competitions conducted under the titles Toughman Fighting, Extreme Fighting or Ultimate Fighting and other competitions that DPR determines to be violent and excessively and unacceptably dangerous. At its 2/04 meeting, JCAR objected to and suspended the rule because it included insufficient standards to be applied by DPR in determining that an event that purports to be a kickboxing event is actually an ultimate fighting event. Statute specifically exempted amateur and professional kickboxing events from DPR's authority to ban ultimate fighting events.

AdoreAble Productions argued DPR did not have authority under the Professional Boxing Act [225 ILCS 105] to apply boxing regulations to kickboxing events, as specifically stated in statute. On 2/9/04, the judge dismissed the case on the defendant's request. On 2/24/04, following JCAR's 2/18/04 Objection/Suspension, DPR's request for restraining order to stop the 2/27-2/28/04 event was denied by Judge Ronald Pirrello.

In *Champaign-Urbana Public Health District vs. ILRB, AFSCME;* 4th Appellate Court, No. 4-03-1081 (2004), the 4th District appellate court ruled that ILRB's use of emergency rulemaking to implement its card recognition rules was not an emergency under the IAPA, despite the fact the agency was implementing a recently enacted PA with an immediate effective date. The court said no emergency existed because union recognition could still occur under the existing methods or the union could wait until the new permanent rules were promulgated:

> "(N)o facts have been presented to show that without the emergency rules the public would be confronted with a threatening situation. AFSCME's insinuation that chaos would reign if the Board was required to follow the general rule-making requirements of the Procedure Act is without merit and fails to establish a situation existed which reasonably constituted a threat to the public interest, safety or welfare. The reason for adopting an emergency rule 'should be truly emergent and persuasive to a reviewing court and considerations of administrative and fiscal convenience alone do not satsfy that standard. Agencies may not adopt emergency rules to eliminate an administrative need that does not threaten the public interest, safety, or welfare.' Here, the Board's reasoning for implementing the emergency rules can best be characterized as one for administrative convenience and not because of any stated public treat. Thus, the rules adopted by the Board...were invalid...."

In this instance, one court has taken a narrower view of the appropriate use of emergency rulemaking than the Committee's historical position. Implementation of a recently enacted Public Act by an agency may not now be appropriate action for an agency, barring other circumstances. Historically, the Committee has voted procedural Objections or Recommendations when agencies have employed emergency rulemaking to implement Public Acts after adequate time for regular rulemaking was present (the "agency created" emergency situation spoken of in *Senn Park*), but has not taken adverse action because an agency acted promptly to implement a recent Public Act through emergency rulemaking.

- In *DuPuy v. Samuels* (7/03), the U.S. District Court entered a preliminary injunction against DCFS requiring an expedited process for child care workers being investigated for child abuse/ neglect. The injunction required, among other things, an administrator's teleconference and right to an expedited appeal. The injunction was appealed by DCFS to the 7th Circuit Court of Appeals. The appellate court ultimately affirmed the preliminary injunction. However, the 7th Circuit remanded the matter to the District Court to include in the definition of child care workers those individuals that are "career entrants", i.e., those who are acquiring the education/training necessary to be a child care worker. On 6/9/05, the District Court entered that order. Subsequently, the plaintiffs requested the District Court to order DCFS to promulgate rules implementing a policy adhering to the injunction. On 12/2/05, the court entered an order granting the plaintiff's motion. The District Court has set a bench trial on the merits of the case. DCFS adopted peremptory rules, effective 12/8/05, to comply with the injunction.

FILING PROHIBITIONS AND SUSPENSIONS ISSUED BY JCAR

12/20/06

DATE	AGENCY	ACTION	BASIS	ISSUE
6/16/81	Health Fin Auth 4 IR 1915	Prohibition	Economic Impact/ Statutory Authority	Implements IHFA Act. Improper definition of "hospital services"; flawed reporting requirements; payor differentials; tries to establish a "contingent liability" agreement with the federal government.
4/13/82	EPA/DPH 4 IR 4669	Prohibition	Economic Impact	Public water supply samples; land & water samples; new regs on milk & milk products. Inadequate economic impact analysis; burdensome requirements for wastewater testing laboratories.
1/8/86	DNS 32 IAC 505 9 IR 1573	Prohibition	Economic Impact/ Federal Preemption	Extensive and burdensome regulation of nuclear steam-generating facilities.
9/23/87	DPR 68 IAC 250 11 IAC 3836	Prohibition	Legislative Intent/ Freedom of Speech/ Economic Impact	Limitation on pre-need solicitation and sale of funeral arrangements.
3/7/90	DPR 68 IAC 1400 13 IR 2913	Prohibition	Economic Impact/ Statutory Authority	Requirements for clinical psychologist licensure conflicted with statute or lacked statutory authority.
9/17/91	DCFS 89 IAC 300 15 IR 8735	Prohibition	Statutory Authority/ Legislative Intent	Disallowed a statutorily required Christian Science exemption in the definition of "neglected child".
1/8/92	DOI 50 IAC 2008 15 IR 14859	Prohibition	Economic Impact	Unlawful discrimination against the elderly by severely limiting the commission earned on the sale of Medicare supplement insurance policies, potentially restricting availability.
1/8/92	Aging 89 IAC 240 15 IR 17398	Suspension	Economic Impact	Program cutbacks without adequate notification and protection of elderly clients.
5/11/93	OSFM 41 IAC 100 16 IR 15681	Prohibition	Conflicting Regulations/Statutory Authority	Conflict between OSFM and DCFS on standards.
9/14/93	DOC 17 IAC 590, 4554	Prohibition	Legislative Intent	Limits number of persons who can hunt geese from a single blind or put to 3, without sufficient justification.
10/12/93	DPA 89 IAC 144,140 17 IR 15126 17 IR 15162	2 Suspensions	Statutory Authority/ Legislative Intent	Reduction in payments to facilities caring for DD clients, in contradiction of PA 88-88.

11/16/93	DFI 38 IAC 130 17 IR 6929	Prohibition	Economic Impact/ Legislative Intent	Unfair rate structure for cashing public aid checks.
12/14/93	ICC 83 IAC 315 93 IR 202	Prohibition	Economic Impact/ Overburdensome Regulation	Unfair rates paid by cable TV companies to utilities for use of pole space.
9/13/94	DPH 77 IAC 790 18 IR 3205 3202	2 Prohibitions (New & Repeal)	Statutory Authority/ Legislative Intent	Inclusion of drug products in the Ill. Drug Formulary that were not deemed equivalent by FDA or were exempt from FDA consideration.
11/15/94	DPA 89 IAC 140 18 IR 10922	Suspension	Statutory Authority	Medicaid coverage of abortions in rape/incest cases conflicted with statute limiting coverage to endangerment of mother's life.
2/7/95	SBE 23 IAC 401 18 IR 9756	Prohibition	Statutory Authority	Regulation of nonpublic special education facilities without statutory authority.
4/18/95	DASA 77 IAC 2090 19 IR 1156	Prohibition	Statutory Authority/ Legislative Intent/ Due Process	Alcoholism/substance abuse centers applying for certification as Medicaid providers w/deficiencies in treatment programs will have applications denied w/no chance for remediation and no chance to appeal the denial.
10/15/96	ICC 83 IAC 761 762 763 764 20 IR 8416 8407 8393 8395 8527 8541	2 (761, 763) Suspensions4 Prohibitions (83 IAC 761, 762, 763, 764)	Overburdensome Regulation	Complex discovery procedures hinder ICC's ability to make an arbitration decision involving local telephone carriers and long distance carriers initiating local service within federal timeframes.
3/18/97	DNR 17 IAC 850 21 IR 322	Prohibition	Economic Impact	Eliminated commercial perch fishing on Lake Michigan will have an undue economic impact on the regulated business.
11/12/97	DPH 77 IAC 290 21 IR 13908	Suspension	Legislative Intent/ Adverse Impact on Availability of Adequate Health Care Facilities	Health facility plan review is statutorily required only for construction projects costing over $5,000, not all projects.
2/17/99	SBEL 26 IAC 201,202 22 IR 7858 7862	2 Prohibitions	Statutory Authority/ Legislative Intent	Creates a system for staff review of nominating petitions for apparent conformity that is not consistent with statutory petition review procedures.

4/11/00	ICC 83 IAC 726 24 IR 1	Prohibition	Statutory Authority/ Economic Impact/ Undue Reg. Burden	Extends application of Enhanced 9-1-1 requirements to schools, governments and not-for-profits rather than the statutorily intended private businesses, corporations and industries.
6/13/00	ICC 83 IAC 727 24 IR 8635E	Suspension	Statutory Authority/ Economic Impact	Extends application of Enhanced 9-1-1 requirements to schools, governments and not-for-profits rather than the statutorily intended private businesses, corporations and industries.
11/29/00	DFI 38 IAC 110 24 IR 11717	Prohibition	Economic Impact	This attempt to regulate short-term (payday) loans and cash for title loans is an unreasonable economic burden for small lenders, which could result in diminished availability of loans for consumers with limited options.
1/9/01	ICC 83 IAC 727 24 IR 8454	Prohibition	Statutory Authority	Extends application of Enhanced 9-1-1 requirements to schools, governments and not-for-profits rather than the statutorily intended private businesses, corporations, and industries.
1/9/01	SBE 23 IAC 28 24 IR 16738	Suspension	Economic Impact	Under these peremptory rules, teachers will not be as qualified to teach children with special needs as current rule provides. Also, teachers will need additional training, which could result in fewer qualified teachers available to serve special education students.
2/21/01	SBE 23 IAC 25 24 IR 16109	Suspension	Economic Impact	Continued enforcement would constitute a serious threat to the welfare of special education students. Implementation may result in unqualified teachers being assigned to students for whom the teacher has no training or preparation.
11/19/02	DPA 89 IAC 120 26 IR 5047	Prohibition	Statutory Authority under federal law	Exceeds federal statutory authority by adding restrictions on determining whether an annuity was transferred at fair market value.
11/18/03	OBRE 38 IAC 375, 1000 1075 27 IR 16024 16029 16043	3 Suspensions	No Legitimate Emergency	Increases fees assessed on financial institutions without proving the existence of a situation meriting the use of emergency rulemaking.
2/18/04	DPR 68 IAC 1370 28 IR 1760	Suspension	Lack of standards	Lacks sufficient standards to be applied in determining whether a purported kickboxing event is actually an ultimate fighting event. (Amateur and professional kickboxing events are exempt from DPR's kickboxing events are exempt from DPR's authority to ban ultimate fighting.)
2/18/04	ICC 92 IAC 1710 27 IR 8600	Prohibition	Economic Impact	Increasing the amount a commercial relocator of trespassing vehicles is charged for filing relocation tow record forms and numbers, regardless of whether the relocator is reimbursed for the tow, may create an undue economic burden on these businesses, which may result in a decrease in relocator availability.
7/13/04	BHE 23 IAC 1020 28 IR 284	Prohibition	Statutory Authority/ Policy Outside Rule	Statute specifies programs eligible for Health Service Education Grants and does not give BHE authority to further deny that eligibility.

1/11/05	DPH 77 IAC 860 870 880 885 28 IR 1652 1674 2613 1684 1717	Prohibition	Threat to the Public Interest	DPH failed to give all affected parties the opportunity to discuss the proposed rulemaking and potential amendments, creating a threat to the public interest.
6/14/05	ESRB 41 IAC 220 29 IR 1101	Prohibition	Statutory Authority	Numerous provisions conflicted with statute or lacked statutory authority.
4/11/06	SBE 23 IAC 305 30 IR 86	Prohibition	Threat to the Public Interest	The rulemaking affects the public interest, safety and welfare by: setting nutrition standards that are substantively problematic as they do not provide a total approach to child nutrition through diet, nutrition education and exercise; by preempting the purview of the State Task Force on Wellness that is to consider the issue of school nutrition and report to the Governor and the General Assembly by January 2007; and by largely excluding local school district input and expertise in development of the proposal.
7/11/06	DCFS 89 IAC 406 408 29 IR 18180 18207	2 Prohibitions	Economic Impact	The rulemakings lack clarity, which threatens the public interest in that applicants/licensees and the families they serve could be adversely economically impacted.
7/11/06	DFPR 38 IAC 110 30 IR 2449	Prohibition	Statutory Authority	Application of Payday Loan Reform Act restrictions to Consumer Installment Loan Act licensees lacks specific statutory authority.
11/14/06	DOL 56 IAC 220 29 IR 19106	Prohibition	Statutory Authority	The provisions regarding when breaks may be taken are not statutorily required and appear to be unduly restrictive without significant benefit.

IR = Illinois Register; IAC = Illinois Administrative Code

HISTORY OF GENERAL RULEMAKING BY AGENCY
1978 THROUGH 2006

AGENCY	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06
Administrative Rules, Joint Committee on	3	5	1	1	1	-	-	-	3	5	-	-	-	-	1	7	2	-	-	-	-	-	-	-	-	-	-	-	-
Aging, Department on	5	1	6	6	4	4	6	3	2	1	3	4	5	2	5	2	5	3	6	7	2	1	2	1	5	-	1	1	2
Agriculture, Department of [16]	14	21	14	16	24	18	41	15	11	26	21	16	7	2	18	17	13	22	15	14	17	18	7	13	13	11	13	5	11
Attorney General	3	1	2	-	3	2	3	2	2	2	3	-	1	1	1	-	-	1	-	-	3	2	3	-	2	1	1	3	1
Attorney General's Ethics Commission	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-
Auditor General	7	5	2	1	4	1	3	1	-	-	-	1	2	-	-	1	-	2	-	-	-	3	-	-	-	-	-	2	-
Banking Board of Illinois, State	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-
Capital Development Board [29]	2	1	3	-	3	-	2	9	4	6	3	2	-	-	2	1	-	2	11	8	6	2	7	8	1	3	2	2	2
Carnival-Amusement Safety Board	-	-	-	-	-	-	-	-	2	3	-	2	1	-	2	1	1	-	-	2	-	1	-	1	-	2	-	1	-
Central Management Services, Dept. of [2]	11	9	16	16	13	16	18	10	14	11	11	11	14	14	19	14	6	16	15	12	11	16	19	18	29	11	11	20	22
Children & Family Services, Department of	2	2	60	1	26	10	23	14	22	3	9	5	7	6	12	13	16	22	23	20	13	8	22	13	20	11	8	8	8
Civil Service Commission	-	-	-	2	-	-	2	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-
Civil Service System, State Universities	2	2	-	3	-	1	2	1	1	1	2	1	-	-	-	1	-	1	-	-	-	-	-	-	-	-	-	-	-
Commerce & Econ. Opport., Dept. of [15][23][25]	1	1	3	1	8	4	20	29	31	18	17	17	19	16	13	8	7	4	5	3	4	5	8	7	7	1	10	4	5
Commerce Commission	17	11	19	10	21	19	43	22	20	86	24	26	14	16	16	16	16	10	10	14	12	6	15	16	25	40	10	22	3
Community College Board	-	1	-	-	1	2	3	2	2	2	5	5	3	2	3	2	4	-	5	2	-	3	1	1	2	-	2	1	-
Comprehensive Health Insurance Plan	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Comptroller	1	2	4	3	4	4	3	1	5	3	4	2	2	-	1	2	3	-	1	2	1	1	3	3	3	1	-	-	1
Comptroller's Merit Commission	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1	-	-	-	-	-	-	-	-	-	-	-
Cook County Local Records Commission	-	-	-	-	-	-	-	-	1	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Corrections, Department of	82	23	38	24	15	66	-	1	10	8	5	8	7	4	5	6	-	4	4	6	4	1	-	2	4	-	4	3	3
Court of Claims	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-
CPA Board of Examiners	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	1	-	-	-	-	-	1	1	-	-
Criminal Justice Information Authority	1	2	-	-	-	-	-	1	1	2	-	1	2	-	2	2	-	-	1	1	1	-	1	4	-	-	1	-	-
Deaf and Hard of Hearing Commission	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-
Debt Collection Board	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	2	-	-	-	1
Planning Council on Developmental Disabilities	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Drycleaners Environmental Response Trust Fund	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	-	1	1	3
Eastern Illinois University	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Education, State Board of	3	4	9	8	3	7	5	12	30	12	9	10	10	5	9	10	10	10	7	6	18	14	4	22	14	8	16	50	23
Educational Labor Relations Board	-	-	-	-	-	-	4	3	-	-	2	5	-	-	2	-	-	-	-	-	-	-	-	1	-	-	10	-	-
Educational Opportunity, Consortium for	-	-	-	-	-	-	-	-	1	-	-	-	2	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Elections, State Board of	6	1	8	3	7	3	4	1	-	3	-	7	3	2	-	2	1	1	2	5	5	6	1	-	2	4	5	7	5
Elevator Safety Review Board	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1
Emergency Management Agency [3][24]	-	-	1	4	12	10	4	3	22	9	9	8	8	3	12	19	8	5	11	6	12	8	5	10	8	5	3	9	-
Employment Security, Department of	-	-	-	-	-	-	3	13	10	5	19	16	11	14	8	13	8	3	2	5	1	1	4	2	1	2	5	4	-
Environmental Protection Agency	7	12	10	16	18	20	21	10	8	14	16	8	6	4	14	4	3	6	5	11	6	5	7	8	3	3	1	3	4
Ethics, Board of	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

HISTORY OF GENERAL RULEMAKING BY AGENCY
1978 THROUGH 2006

AGENCY	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06
Executive Ethics Commission [33]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	2	-
Experimental Organ Transplantation Proced. Bd.	-	-	-	-	-	-	-	1	1	-	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Export Development Authority	-	-	-	-	-	-	-	1	1	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Financial and Professional Regulation [28]	30	41	53	38	36	23	61	32	30	32	40	34	27	38	41	39	29	43	42	45	61	45	55	29	51	59	32	43	33
Finance Authority [30]	5	2	1	1	2	3	4	2	10	6	2	1	3	-	4	3	1	1	5	2	1	2	2	2	-	1	-	-	-
Fire Marshal	1	2	1	1	7	3	5	3	3	5	1	4	4	5	6	1	3	6	5	5	6	-	3	3	6	3	2	3	2
Gaming Board	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	1	3	2	1	2	2	2	3	3	1
Governor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1	-	-	-	-	-	-	-
Guardianship & Advocacy Commission	-	-	2	1	2	2	1	3	-	-	-	-	1	-	1	-	-	-	-	-	-	-	6	-	1	-	-	-	-
Healthcare and Family Services, Department of [31]	46	56	47	66	40	86	67	94	82	87	107	67	94	78	84	65	43	75	53	39	30	19	23	30	43	32	30	37	32
Health Facilities Planning Board	-	1	-	-	-	-	2	1	9	3	3	7	-	3	4	5	4	1	2	5	3	7	14	3	4	-	-	4	1
Hearing Aid Consumer Protection Board	-	-	-	-	-	-	-	-	-	1	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Higher Education CPO	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-
Higher Education, Board of	-	3	2	5	-	-	20	5	3	-	1	6	-	-	1	1	1	-	-	-	1	4	-	-	-	-	1	2	5
Historic Preservation Agency	-	-	-	-	-	-	-	-	-	-	-	-	1	2	2	-	-	-	1	1	-	-	1	-	1	-	-	-	-
Housing Development Authority	-	-	1	-	-	3	3	5	1	1	1	1	3	2	5	1	3	1	-	9	3	2	1	3	1	1	-	1	3
Human Rights Commission [17]	2	3	-	1	1	2	2	-	1	-	-	-	-	-	-	-	-	-	1	1	-	-	-	-	-	-	-	-	-
Human Rights, Department of	-	-	1	5	4	3	1	-	1	-	-	-	-	-	1	1	3	1	1	2	1	1	1	1	2	-	2	2	3
Human Services, Department of [11] [1][18]	23	15	12	13	12	29	37	26	65	51	34	30	40	30	25	34	27	27	38	24	106	69	46	39	34	36	32	15	19
Illinois State Universtiy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Independent Higher Ed Loan Authority	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Investments, Illinois State Board of	-	3	1	-	1	2	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Labor Relations Board [22]	-	-	-	-	-	-	8	2	16	-	8	-	8	-	-	4	-	-	5	-	-	-	-	-	4	2	2	-	-
Labor, Department of	5	6	3	7	8	8	5	3	3	1	2	1	3	2	9	-	1	4	2	3	1	1	12	3	-	-	4	9	-
Law Enforcement Training Standards Bd. [20]	-	-	-	-	-	4	1	-	2	1	-	2	2	1	1	-	-	1	-	-	1	-	-	-	-	-	1	1	-
Legislative Information System	1	-	2	-	2	1	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-
Legislative Space Needs Commission	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Lieutenant Governor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1	-	-	-	1	1	-	-	1	-	-	-	-
Liquor Control Commission	2	-	-	-	-	1	-	-	-	-	1	-	-	-	-	1	-	1	-	1	1	3	-	2	2	-	-	-	-
Local Records Commission	-	1	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Low-Level Radioactive Waste Task Group	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Medical Center Commission	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Military Affairs, Department of [5]	-	-	-	-	-	-	-	1	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1	-	1
Motor Vehicle Theft Prevention Council	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	2	-	-	-	-	-	-	-	-	-	-	-	-	-
Natural Resources, Department of [10]	80	93	81	116	41	41	41	44	84	36	24	58	48	60	73	34	25	55	31	35	60	40	25	52	45	32	47	35	23
Nature Preserves Commission	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	1	1	-	-	-	-	-	-	-	-	-	-	-	-
Northeastern Illinois Planning Commission	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	1	-	-	1	-	-	-	-	-	-
Obsolete Boards & Commissions	10	4	5	15	2	-	-	10	2	3	3	1	1	3	3	3	2	5	-	3	-	-	5	-	-	-	-	-	-

HISTORY OF GENERAL RULEMAKING BY AGENCY
1978 THROUGH 2006

AGENCY	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06
Obsolete Higher Ed Boards (BOR, BOG) [13]	-	-	-	2	2	1	-	1	-	-	1	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Pollution Control Board	18	11	18	13	18	23	21	32	43	53	73	71	54	36	29	24	66	11	34	31	17	7	30	12	17	9	20	18	11
Prisoner Review Board	2	-	-	-	1	-	-	1	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-
Procurement Policy Board	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3	-	2	-	-	-	-	-
Property Tax Appeal Board	-	-	-	-	-	-	-	1	-	-	-	1	-	-	-	-	-	-	1	3	1	1	-	-	-	-	-	5	6
Public Health, Department of [21]	42	43	55	44	92	91	53	25	44	27	50	45	48	28	46	53	28	29	30	46	38	18	41	30	35	44	18	30	21
Purchased Care Review Board [27]	1	6	2	1	-	1	1	1	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-
Racing Board	10	14	19	10	22	9	7	13	14	9	11	5	40	17	20	25	27	37	16	23	4	4	17	20	16	6	15	22	11
Records Commission, State	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Retirement System, General Assembly	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Retirement System, Judges	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Retirement System, State Employees'	2	3	5	3	4	1	2	3	-	-	1	-	2	1	1	-	-	-	1	2	2	1	2	1	1	-	2	1	2
Retirement System, State Universities	1	-	-	-	-	1	-	-	-	-	-	1	1	-	-	-	-	-	1	3	-	2	-	1	-	2	2	8	4
Retirement System, Teachers'	2	-	-	-	-	-	-	2	-	-	1	-	1	1	2	1	1	1	1	2	5	1	2	1	3	1	2	3	2
Revenue, Department of [26]	11	18	24	45	14	11	9	7	26	19	22	24	35	25	12	20	22	22	33	12	24	11	78	52	41	18	23	11	6
Savings Insitutions, Board of [12]	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-
Secretary of State	15	21	12	26	14	31	20	19	8	18	30	31	21	14	13	21	13	14	21	27	16	10	14	13	26	7	17	24	25
Secretary of State's Merit Commission	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Sex Offender Management Board	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	2	1	-
Southern Illinois University Board of Trustees	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Specialized Care for Children, Division of	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	1	1	-	-	-	-	-	-
Sports Facilities Authority	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
State Historical Library	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
State Mandates Board of Appeals	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
State Police Merit Board [8]	2	2	1	-	1	1	4	1	2	2	2	2	-	1	2	1	1	1	2	3	1	1	1	1	3	1	1	-	3
State Police, Department of [14]	2	-	1	-	1	2	2	1	2	1	4	-	2	1	3	2	-	1	4	2	4	-	4	5	3	6	3	1	2
State's Attorneys Appellate Prosecutor [4]	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		-	-
Student Assistance Commission [9]	1	3	4	11	4	2	1	14	10	13	5	9	1	5	10	15	13	8	19	35	15	8	15	10	8	15	9	10	18
Toll Highway Authority, Illinois State	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	1	1	-	1	2	-	1	1	1	3	-
Transportation, Department of [10]	13	13	13	17	5	5	10	16	23	16	25	18	15	32	21	28	18	22	12	13	23	17	19	16	22	14	22	15	26
Travel Control Board, Governor's	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-
Travel Control Board, Higher Education	-	1	1	1	2	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Travel Control Board, Legislative	1	1	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-
Travel Regulation Council	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-
Treasurer	1	1	-	-	-	1	1	-	-	-	-	4	-	2	5	7	-	-	-	-	4	-	3	2	2	-	-	4	3
University of Illinois, Board of Trustees	-	-	-	1	-	1	1	1	1	-	2	2	-	-	1	1	1	1	-	4	-	-	1	-	-	-	-	-	-

HISTORY OF GENERAL RULEMAKING BY AGENCY
1978 THROUGH 2006

AGENCY	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06
Veterans' Affairs, Department of	1	2	2	2	-	1	1	-	5	7	-	-	-	-	5	-	-	1	-	-	-	-	12	1	1	-	-	-	-
Workers' Compensation Commission [32]	4	1	3	2	3	1	2	7	2	-	-	-	6	1	2	-	-	4	-	-	-	-	-	-	-	-	-	-	1
(Workers' Comp) Commission Review Bd [32]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTALS	**498**	**474**	**565**	**561**	**506**	**581**	**602**	**525**	**694**	**614**	**627**	**589**	**580**	**482**	**581**	**537**	**440**	**483**	**488**	**512**	**554**	**384**	**553**	**467**	**520**	**399**	**399**	**461**	**361**

This table illustrates the number of rulemakings commenced by each agency during the calendar year.

[1] DASA, once a division of Dangerous Drugs Commission, became a separate agency in 1984. [2] The Depts. of Personnel and Administrative Services were combined in 1982 and the name was changed to Dept. of Central Management Services. [3] Includes Emergency Services & Disaster Agency, which was renamed IEMA in 1992. [4] Includes State's Attorneys Appellate Service Commission. [5] The Military & Naval Department became the Department of Military Affairs in 1988. [6] The Department of Registration & Education became DPR in 1988. [7] Commissioner of Savings & Loan Associations became the Commissioner of Savings & Residential Finance in 1990 and combined with the Commissioner of Banks and Trusts to become the Commissioner of Banks and Real Estate in 1996. The new office also absorbed the real estate licensing functions of DPR. [8] Until 1986, the Dept. of Law Enforcement Merit Board. [9] The State Scholarship Commission became ISAC in 1989. [10] In 1995, DOC, ENR (previously, Institute of Natural Resources), M&M, AMLRC, and DOT Waterways Division were merged into the Department of Natural Resources. [11] July 1997, DHS was formed from DASA, DORS, DMHDD, and specific programs from DPA and DPH. [12] In 1996, the Savings and Loan Adivsory Board became the Board of Savings Instituions. [13] In 1996, the Board of Regents/Governors were disbanded in favor of individual boards of trustees. Also includes obsolete Trustees of State CC of E. St. L. [14] Prior to 1985, Department of Law Enforcement. [15] Prior to 1979, Department of Local Government Affairs. [16] Includes State Fair Agency (prior to 1979). [17] Absorbed Fair Employment Practices Commission in 1980. [18] In 1984, the Dangerous Drugs Commission was absorbed by DASA, whch was then absorbed by DHS in 1997. [19] IEFA absorbed the Higher Education Loan Authority in c. 1988. [20] In 1993, the Local Gov. Law Enforcement Officers Training Board was renamed the Law EnforcementTranining & Standards Board. [21] HCCC absorbed Health Finance Authority (1979-82) duties in 1984. HCCC was abolished in 2002 and its duites taken by DPH. [22] In 2000, the Local Labor Relations and State Labor Relations Boards were combined into the Illinois Labor Relations Board. [23] In 2003, DCCA became DCEO. [24] In 2003, DNS was absorbed by IEMA. [25] In 2003, Prairie State 2000 Auth. was transferred to DCEO. [26] In 2003, Department of the Lottery was transferred to Revenue. [27] The Governor's Purchased Care Review Board became the Purchased Care Review Board when it moved into SBE in 1996. [28] In 2004, the Departments of Insurance, Professional Regulation and Financial Institutions and the Office of Banks and Real Estate were combined into the Department of Financial and Professional Regulation. [29] Illinois Building Commission was absorbed by the Capital Development Board 7/1/04. [30] The Illinois Finance Authority absorbed Illinois Development Finance Authority, Illinois Farm Development Authority, Illinois Health Facilities Authority, Illinois Research Park Authority, Illinois Rural Bond Bank, Illinois Educational Facilities Authority and the Illinois Community Development Finance Corporation 1/1/04. [31] 7/1/05, the name of the Department of Public Aid was changed to the Department of Healthcare and Family Services. [32] On 1/1/05, the name of the Illinois Industrial Commission was changed to the Illinois Workers' Compensation Commission. [33] On 1/1/99, PA 90-737 repealed the Governor's Ethics Commission and replaced it with the Executive Ethics Commission.

HISTORY OF EMERGENCY RULEMAKING BY AGENCY
1978 THROUGH 2006

AGENCY	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06
Administrative Rules, Joint Committee on	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Aging, Department on	4	1	1	1	1	-	-	-	-	-	-	1	-	3	5	1	1	2	1	-	-	-	-	-	1		1	-	2
Agriculture, Department of [16]	1	3	2	-	-	-	1	2	1	1	2	1	-	1	-	3	1	1	1	-	1	-	3	1	2	5	1	-	1
Attorney General	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	1	1	-
Banking Board of Illinois, State	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-
Capital Development Board [29]	-	-	2	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	1	3	2	-	-	-	-	1	2	2
Carnival-Amusement Safety Board	-	-	-	-	-	-	-	-	1	-	-	1	1	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Central Management Services, Department of [2]	9	5	4	3	5	3	13	6	6	4	8	3	4	3	7	-	2	1	8	4	6	6	4	3	7	3	5	6	5
Children & Family Services, Department of	-	-	2	-	4	1	-	-	1	1	-	-	2	4	1	2	4	6	-	7	1	1	5	4	3	-	2	1	1
Commerce & Economic Opport., Dept. of [15][23][26]	1	-	-	-	-	-	-	6	7	2	1	8	2	2	2	3	-	-	-	1	1	2	4	2	1	2	1	6	3
Commerce Commission	1	1	5	-	2	5	3	1	5	3	4	2	-	1	1	-	2	-	2	4	6	-	8	5	1	2	1	1	-
Community College Board	-	-	-	-	-	1	2	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-
Comptroller	-	2	1	-	-	-	-	-	-	-	-	-	-	-	-	1	1	-	-	-	1	-	1	-	1	-	-	-	-
Corrections, Department of	21	8	4	2	15	-	-	-	-	-	-	-	3	-	1	4	-	-	1	4	-	-	-	-	-	-	1	1	-
CPA Board of Examiners	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-
Criminal Justice Information Authority	-	2	-	-	-	-	-	1	-	1	-	1	-	-	-	-	-	-	1	1	1	-	1	-	-	-	-	-	-
Dangerous Drugs Advisory Council	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Dry Cleaners Emergency Response Trust Fund	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-
Education, State Board of	2	-	3	1	-	3	-	9	5	2	-	2	2	-	-	-	1	1	2	-	8	1	2	2	-	1	3	3	4
Educational Labor Relations Board	-	-	-	-	-	-	4	1	-	-	1	1	-	-	1	-	-	-	-	-	-	-	-	-	-	-	2	-	-
Educational Opportunity, Consortium For	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Elections, State Board of	3	1	4	1	2	1	2	-	-	-	-	-	1	-	-	1	-	1	1	-	1	2	1	-	-	-	2	3	-
Elevator Safety Review Board																													1
Emergency Management Agency [3][25]	-	-	-	-	2	-	2	1	1	2	-	-	-	-	-	2	1	2	1	1	6	-	-	2	2	-	-	-	-
Employment Security, Department of	-	-	-	-	-	-	3	-	-	-	4	5	1	-	2	2	2	1	-	-	-	-	1	1	-	-	-	2	-
Environmental Protection Agency	2	3	3	2	-	-	2	2	2	3	-	1	-	-	1	-	-	1	-	2	-	-	-	-	-	-	-	-	-
Executive Ethics Commission [33]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-
Experimental Organ Transplantation Proced. Bd.	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Export Development Authority	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Financial and Professional Regulation	5	5	12	6	8	8	6	4	10	5	6	7	2	6	7	7	1	6	2	7	11	3	15	4	8	11	5	2	4
Finance Authority	-	1	-	-	1	1	1	2	5	-	-	-	3	-	1	-	-	-	-	-	-	2	-	-	-	-	-	-	-
Fire Marshal	-	1	1	-	2	1	2	-	2	-	-	3	1	-	-	2	-	-	-	-	1	-	-	-	-	2	-	-	2
Gaming Board	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1	1	1	-	-	1	1	1	1	-
Governor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-
Guardianship and Advocacy Commission	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Healthcare and Family Services, Department of [31]	19	14	4	3	4	2	6	6	9	18	17	15	18	19	27	17	6	29	15	22	13	10	6	10	25	16	20	20	24
Health Coordinating Council, Statewide	3	-	-	1	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Health Facilities Planning Board	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4	1	-	2	-	1	-	1	-	-	-	-	-	-	-
Higher Education CPO	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-

HISTORY OF EMERGENCY RULEMAKING BY AGENCY
1978 THROUGH 2006

AGENCY	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06
Higher Education Loan Authority, Independent	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Higher Education, Board of	-	1	-	1	-	-	1	-	-	-	-	1	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	1	2
Housing Development Authority	-	-	-	-	-	1	1	1	-	1	-	-	3	-	2	1	2	1	-	3	-	-	1	1	1	1	-	-	-
Human Rights Commission [17]	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-
Human Rights, Department of	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-
Human Services, Department of [11][1]	1	1	-	1	3	1	1	1	5	1	1	4	2	3	14	31	1	3	2	8	22	29	16	9	5	1	8	3	3
Investments, Illinois State Board of	-	1	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Labor Relations Board	-	-	-	-	-	-	8	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	2	-	-
Labor, Department of	-	-	1	3	-	3	3	2	-	-	-	-	1	1	-	1	1	-	-	-	-	-	1	-	-	-	3	1	-
Legislative Information System	1	-	1	-	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Lieutenant Governor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-
Liquor Control Commission	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-
Law Enforcement Training Standards Board	-	-	-	-	-	1	-	-	1	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	1	1	-
Medical Center Commission	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Military Affairs, Department of [24]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1	-	-
Motor Vehicle Theft Prevention Council	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Natural Resources, Department of [10]	21	18	14	14	6	5	1	7	4	1	7	6	3	6	6	5	6	4	-	1	4	5	1	5	4	1	2	4	1
Obsolete Boards & Commissions	4	1	-	-	-	-	-	-	1	1	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Pollution Control Board	2	1	1	3	1	1	3	3	2	-	1	-	1	-	-	3	1	1	1	1	-	-	-	-	-	-	-	-	-
Prisoner Review Board	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Public Health, Department of [18]	12	12	11	1	15	2	2	2	3	1	18	3	13	8	4	24	7	6	13	10	1	3	2	1	3	23	1	13	-
Purchased Care Review Board [28]	1	4	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Racing Board	6	7	2	-	2	2	1	2	-	-	1	1	-	2	1	3	1	4	1	-	-	3	-	-	3	1	2	3	1
Retirement System, State Employees'	-	-	3	-	1	-	1	1	-	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	1	-	1	-	-
Retirement System, State Universities	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-
Retirement System, Teachers'	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	2	3	-	-	-	-	-	-	-	-
Revenue, Department of [27]	-	1	9	1	3	-	1	-	4	-	4	2	1	3	2	5	-	3	2	1	5	5	6	5	3	14	8	1	-
Secretary of State	3	2	-	1	1	3	3	6	2	-	-	1	-	3	2	5	2	1	7	4	3	3	7	10	4	4	3	2	4
Sex Offender Management Board	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-
Specialized Care for Children, Division of	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-
State Mandates Board of Appeals	-	-	-	-	1	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
State Police Merit Board [8]	3	-	1	-	-	-	2	-	-	-	-	1	-	-	1	-	-	-	1	-	-	-	1	-	-	-	-	-	-
State Police, Department of [14]	1	-	-	-	-	-	-	-	1	-	-	-	1	1	1	-	-	-	2	-	-	-	-	3	2	-	-	-	1
Student Assistance Commission [9]	-	-	-	1	2	1	-	-	2	2	1	-	1	5	2	3	1	1	2	-	1	-	-	-	-	1	1	-	-
Toll Highway Authority, Illinois State	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	1	1	2	-	-
Transportation, Department of [10]	1	2	2	1	-	-	1	1	1	2	-	-	-	-	1	-	1	-	-	1	1	-	5	-	-	-	2	1	-
Travel Control Board, Legislative	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Travel Regulation Council	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Treasurer	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	1	-	3	1	-	-	1	2	-

HISTORY OF EMERGENCY RULEMAKING BY AGENCY
1978 THROUGH 2006

AGENCY	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06
University of Illinois, Board of Trustees	-	-	-	1	-	1	-	-	-	-	-	-	-	-	-	2	-	1	-	-	4	-	1	-	-	-	-	-	-
Veterans' Affairs, Department of	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-
Workers' Compensation Commission [32]	-	-	1	2	2	-	2	2	2	-	-	-	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
TOTALS	**133**	**100**	**96**	**48**	**82**	**49**	**76**	**72**	**85**	**51**	**78**	**71**	**67**	**72**	**101**	**129**	**47**	**79**	**70**	**90**	**111**	**82**	**100**	**70**	**79**	**93**	**88**	**83**	**62**

This table illustrates the number of rulemakings commenced by each agency during the calendar year.

[1] DASA, once a division of Dangerous Drugs Commission, became a separate agency in 1984. [2] The Depts. of Personnel and Administrative Services were combined in 1982 and the name was changed to Dept. of Central Management Services. [3] Includes Emergency Services & Disaster Agency, which was renamed IEMA in 1992. [4] Includes State's Attorneys Appellate Service Commission. [5] The Military & Naval Department became the Department of Military Affairs in 1988. [6] The Department of Registration & Education became DPR in 1988. [7] Commissioner of Savings & Loan Associations became the Commissioner of Savings & Residential Finance in 1990 and combined with the Commissioner of Banks and Trusts to become the Commissioner of Banks and Real Estate in 1996. The new office also absorbed the real estate licensing functions of DPR. [8] Until 1986, the Dept. of Law Enforcement Merit Board. [9] The State Scholarship Commission became ISAC in 1989. [10] In 1995, DOC, ENR (previously, Institute of Natural Resources), M&M, AMLRC, and DOT Waterways Division were merged into the Department of Natural Resources. [11] July 1997, DHS was formed from DASA, DORS, DMHDD, and specific programs from DPA and DPH. [12] In 1996, the Savings and Loan Adivsory Board became the Board of Savings Instituions. [13] In 1996, the Board of Regents/Governors were disbanded in favor of individual boards of trustees. [14] Prior to 1985, Department of Law Enforcement. [15] Prior to 1979, Department of Local Government Affairs. [16] Includes State Fair Agency (prior to 1979). [17] Absorbed Fair Employment Practices Commission in 1980. [18] HCCC absorbed Health Finance Authority (1979-82) duties in 1984. HCCC was abolished in 2002 and its duites taken by DPH. [22] In 2000, the Local Labor Relations and State Labor Relations Boards were combined into the Illinois Labor Relations Board. [23] In 2003, DCCA became DCEO. [24] The Military & Naval Department became the Department of Military Affairs in 1988. [25] In 2003, DNS was absorbed by IEMA. [26] In 2003, Prairie State 2000 Auth. was transferred to DCEO. [27] In 2003, Department of the Lottery was transferred to Revenue. [28] The Governor's Purchased Care Review Board became the Purchased Care Review Board when it moved into SBE in 1996. [28] In 2004, the Departments of Insurance, Professional Regulation and Financial Institutions and the Office of Banks and Real Estate were combined into the Department of Financial and Professional Regulation. [29] Illinois Building Commission was absorbed by the Capital Development Board 7/1/04. [30] The Illinois Finance Authority absorbed Illinois Development Finance Authority, Illinois Farm Development Authority, Illinois Health Facilities Authority, Illinois Research Park Authority, Illinois Rural Bond Bank, Illinois Educational Facilities Authority and the Illinois Community Development Finance Corporation 1/1/04. [31] 7/1/05, the name of the Department of Public Aid was changed to the Department of Healthcare and Family Services. [32] On 1/1/05, the name of the Illinois Industrial Commission was changed to the Illinois Workers' Compensation Commission. [33] On 1/1/99, PA 90-737 repealed the Governor's Ethics Commission and replaced it with the Executive Ethics Commission.

HISTORY OF PEREMPTORY/EXEMPT RULEMAKING BY AGENCY
1978 THROUGH 2006

AGENCY	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06
Aging, Department of	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Agriculture, Department of [16]	-	-	-	-	-	-	-	9	10	9	7	5	5	4	6	4	7	5	5	6	4	2	5	3	2	4	4	4	2
Central Management Services, Department of [2]	-	-	-	-	-	-	-	-	6	7	7	3	4	2	2	1	3	6	4	5	11	3	6	3	2	1	10	13	13
Children & Family Services, Department of	-	-	-	1	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-
Commerce Commission	-	-	-	-	1	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Comptroller	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Corrections, Department of	9	-	-	1	3	1	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-
Education, State Board of	2	1	7	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-
Employment Security, Department of	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Healthcare and Family Services, Department of [13]	12	6	5	31	6	3	9	2	3	4	2	1	1	1	1	1	-	1	1	-	-	-	-	-	-	-	-	-	-
Department of Human Services [11][1]	-	-	-	-	-	-	-	-	-	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1	1	2	2
Labor, Department of	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Natural Resources, Department of [10]	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Nature Preserves Commission	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Pollution Control Board	-	1	4	8	7	10	11	9	14	10	-	-	-	21	25	20	30	20	17	19	22	19	24	13	14	11	10	18	25
Public Health, Department of	-	-	-	-	1	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Retirement System, State Employees	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Revenue, Department of	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Transportation, Department of [10]	1	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4	5	-
Travel Regulation Council	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Treasurer	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-
Obsolete Boards & Commissions	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTALS	24	9	17	41	21	16	22	23	33	33	19	10	10	28	34	29	40	32	27	30	37	24	37	19	19	17	29	44	42

This table illustrates the number of rulemakings commenced by each agency during the calendar year.

[1] DASA, once a division of Dangerous Drugs Commission, became a separate agency in 1984. [2] The Depts. of Personnel and Administrative Services were combined in 1982 and the name was changed to Dept. of Central Management Services. [3] Includes Emergency Services & Disaster Agency, which was renamed IEMA in 1992. [4] Includes rules of the Institute of Natural Resources, which predated the Department. [5] The Military & Naval Department became the Department of Military Affairs in 1988. [6] The Department of Registration & Education became DPR in 1988. [7] Commissioner of Savings & Loan Associations became the Commissioner of Savings & Residential Finance in 1990. [8] Until 1986, the Dept. of Law Enforcement Merit Board. [9] The State Scholarship Commission bcame ISAC in 1989. [10] In 1995, DOC, M&M, AMLRC, and DOT Waterways Division were merged into the Department of Natural Resources. [11] July 1997, DHS was formed from DASA, DORS, DMHDD, and specific programs from DPA and DPH. [12] In 1996, the Savings and Loan Adivsory Board became the Board of Savings Institutions. [13] 7/1/05, the name of the Department of Public Aid was changed to the Department of Healthcare and Family Services.

Illinois Administrative Procedure Act

ARTICLE 1. TITLE AND GENERAL PROVISIONS

Section 1-1 Short title

This Act may be cited as the Illinois Administrative Procedure Act.

Section 1-5 Applicability

a) This Act applies to every agency as defined in this Act. Beginning January 1, 1978, in case of conflict between the provisions of this Act and the Act creating or conferring power on an agency, this Act shall control. If, however, an agency (or its predecessor in the case of an agency that has been consolidated or reorganized) has existing procedures on July 1, 1977, specifically for contested cases or licensing, those existing provisions control, except that this exception respecting contested cases and licensing does not apply if the Act creating or conferring power on the agency adopts by express reference the provisions of this Act. Where the Act creating or conferring power on an agency establishes administrative procedures not covered by this Act, those procedures shall remain in effect.

b) The provisions of this Act do not apply to (i) preliminary hearings, investigations, or practices where no final determinations affecting State funding are made by the State Board of Education, (ii) legal opinions issued under Section 2-3.7 of the School Code, (iii) as to State colleges and universities, their disciplinary and grievance proceedings, academic irregularity and capricious grading proceedings, and admission standards and procedures, and (iv) the class specifications for positions and individual position descriptions prepared and maintained under the Personnel Code. Those class specifications shall, however, be made reasonably available to the public for inspection and copying. The provisions of this Act do not apply to hearings under Section 20 of the Uniform Disposition of Unclaimed Property Act.

c) Section 5-35 of this Act relating to procedures for rulemaking does not apply to the following:

    1) Rules adopted by the Pollution Control Board that, in accordance with Section 7.2 of the Environmental Protection Act, are identical in substance to federal regulations or amendments to those regulations implementing the following: Sections 3001, 3002, 3003, 3004, 3005, and 9003 of the Solid Waste Disposal Act; Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; Sections 307(b), 307(c), 307(d), 402(b)(8), and 402(b)(9) of the Federal

Water Pollution Control Act; and Sections 1412(b), 1414(c), 1417(a), 1421, and 1445(a) of the Safe Drinking Water Act.

2) Rules adopted by the Pollution Control Board that establish or amend standards for the emission of hydrocarbons and carbon monoxide from gasoline powered motor vehicles subject to inspection under Section 13A-105 of the Vehicle Emissions Inspection Law and rules adopted under Section 13B-20 of the Vehicle Emissions Inspection Law of 1995.

3) Procedural rules adopted by the Pollution Control Board governing requests for exceptions under Section 14.2 of the Environmental Protection Act.

4) The Pollution Control Board's grant, pursuant to an adjudicatory determination, of an adjusted standard for persons who can justify an adjustment consistent with subsection (a) of Section 27 of the Environmental Protection Act.

5) Rules adopted by the Pollution Control Board that are identical in substance to the regulations adopted by the Office of the State Fire Marshal under clause (ii) of paragraph (b) of subsection (3) of Section 2 of the Gasoline Storage Act.

d) Pay rates established under Section 8a of the Personnel Code shall be amended or repealed pursuant to the process set forth in Section 5-50 within 30 days after it becomes necessary to do so due to a conflict between the rates and the terms of a collective bargaining agreement covering the compensation of an employee subject to that Code.

e) Section 10-45 of this Act shall not apply to any hearing, proceeding, or investigation conducted under Section 13-515 of the Public Utilities Act.

f) Article 10 of this Act does not apply to any hearing, proceeding, or investigation conducted by the State Council for the State of Illinois created under Section 3-3-11.05 of the Unified Code of Corrections or by the Interstate Commission Commision for Adult Offender Supervision created under the Interstate Compact for Adult Offender Supervision.

Section 1-10 Definitions

As used in this Act, unless the context otherwise requires, terms have the meanings set forth in the following Sections.

Section 1-15 Administrative law judge

"Administrative law judge" means the presiding officer or officers at the initial hearing before each agency and each continuation of that hearing. The term also includes but is not limited to hearing examiners, hearing officers, referees, and arbitrators.

Section 1-20 Agency

"Agency" means each officer, board, commission, and agency created by the Constitution, whether in the executive, legislative, or judicial branch of State government, but other than the circuit court; each officer, department, board, commission, agency, institution, authority, university, and body politic and corporate of the State; each administrative unit or corporate outgrowth of the State government that is created by or pursuant to statute, other than units of local government and their officers, school districts, and boards of election commissioners; and each administrative unit or corporate outgrowth of the above and as may be created by executive order of the Governor. "Agency", however, does not include the following:

1) The House of Representatives and Senate and their respective standing and service committees, including without limitation the Board of the Office of the Architect of the Capitol and the Architect of the Capitol established under the Legislative Commission Reorganization Act of 1984.
2) The Governor.
3) The justices and judges of the Supreme and Appellate Courts.
4) The Legislative Ethics Commission

Section 1-25 Agency head

"Agency head" means an individual or group of individuals in whom the ultimate legal authority of an agency is vested by any provision of law.

Section 1-30 Contested case

"Contested case" means an adjudicatory proceeding (not including ratemaking, rulemaking, or quasi-legislative, informational, or similar proceedings) in which the individual legal rights, duties, or privileges of a party are required by law to be determined by an agency only after an opportunity for a hearing.

Section 1-35 License

"License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law, but it does not include a license required solely for revenue purposes.

Section 1-40 Licensing

"Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

Section 1-45 Municipality

"Municipality" has the meaning ascribed to it in Section 1-1-2 of the Illinois Municipal Code.

Section 1-50 Order

"Order" means an agency action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more specific persons.

Section 1-55 Party

"Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

Section 1-60 Person

"Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

Section 1-65 Ratemaking

"Ratemaking" or "ratemaking activities" means the establishment or review of or other exercise of control over the rates or charges for the products or services of any person, firm, or corporation operating or transacting any business in this State.

Section 1-70 Rule

"Rule" means each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy, but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to persons or entities outside the agency, (ii) informal advisory rulings issued under Section 5-150, (iii) intra-agency memoranda, (iv) the prescription of standardized forms, or (v) documents prepared or filed or actions taken by the Legislative Reference Bureau under Section 5.04 of the Legislative Reference Bureau Act.

Section 1-75 Small business

"Small business" means a corporation or a concern, including its affiliates, that is independently owned and operated, not dominant in its field, and employs fewer than 50 full-time employees or has gross annual sales of less than $4,000,000. For purposes of a specific rule, an agency may define small business to include employment of 50 or more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small businesses and organizations.

Section 1-80 Small municipality

"Small municipality" means any municipality of 5,000 or fewer inhabitants and any municipality of more than 5,000 inhabitants that employs fewer than 50 persons full-time. For purposes of a specific rule, an agency may define small municipality to include employment of more than 50 persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small municipalities.

Section 1-85 Not for profit corporation

"Not for profit corporation" means a corporation organized under the General Not For Profit Corporation Act of 1986 that is not dominant in its field and employs fewer than 50 full-time employees or has gross annual sales of less than $4,000,000. For purposes of a specific rule, an agency may define a not for profit corporation to include employment of 50 or more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of not for profit corporations.

Section 1-90 Rulemaking

a) "Rulemaking" means the process and required documentation for the adoption of Illinois Administrative Code text.

b) Required documentation.

1) At the time of original proposal, rulemaking documentation must consist of a notice page and new, amendatory, or repealed text. New, repealed, and amendatory text must be depicted in the manner required by Secretary of State rule. Amendatory rulemakings must indicate text deletion by striking through all text that is to be omitted and must indicate text addition by underlining all new text.

2) At the time of adoption, documentation must also include pages indicating the text of the new rule, without striking and underlining, for inclusion in the official Secretary of State records, the certification required under Section 5-65(a), and any additional documentation required by Secretary of State rule.

3) For a required rulemaking adopted under Section 5-15, an emergency rulemaking under Section 5-45, or a peremptory rulemaking under Section 5-50, the documentation requirements of paragraphs (b)(1) and (2) of this Section apply at the time of adoption.

c) "Background text" means existing text of the Illinois Administrative Code that is part of a rulemaking but is not being amended by the rulemaking. Background text in rulemaking documentation shall match the current text of the Illinois Administrative Code.

d) No material that was originally proposed in one rulemaking may be combined with another proposed rulemaking that was initially published without that material. However, this does not preclude separate rulemakings from being combined for publication at the time of adoption as authorized by Secretary of State rule.

ARTICLE 5. RULEMAKING PROVISIONS

Section 5-5 Applicability

All rules of agencies shall be adopted in accordance with this Article.

Section 5-10 Adoption and availability of rules

a) In addition to other rulemaking requirements imposed by law, each agency shall (i) adopt rules of practice setting forth the nature and requirements of all formal hearings and (ii) make available for public inspection all rules adopted by the agency in the discharge of its functions.

b) Each agency shall make available for public inspection all final orders, decisions, and opinions, except those deemed confidential by State or federal statute and any trade secrets.

c) No agency rule is valid or effective against any person or party, nor may it be invoked by the agency for any purpose, until it has been made available for public inspection and filed with the Secretary of State as required by this Act. No agency, however, shall assert the invalidity of a rule that it has adopted under this Act when an opposing party has relied upon the rule.

d) Rulemaking that creates or expands a State mandate on units of local government, school districts, or community college districts is subject to the State Mandates Act. The required Statement of Statewide Policy Objectives shall be published in the Illinois Register at the same time that the first notice under Section 5-40 is published or when the rule is published under Section 5-45 or 5-50.

Section 5-15 Required rules

a) Each agency shall maintain as rules the following:

1) A current description of the agency's organization with necessary charts depicting that organization.

2) The current procedures by which the public can obtain information or make submissions or requests on subjects, programs, and activities of the agency. Requests for copies of agency rules shall not be deemed Freedom of Information Act requests unless so labeled by the requestor.

3) Tables of contents, indices, reference tables, and other materials to aid users in finding and using the agency's collection of rules currently in force.

4) A current description of the agency's rulemaking procedures with necessary flow charts depicting those procedures.

5) Any rules adopted under this Section in accordance with Sections 5-75 and 10-20 of this Act.

b) The rules required to be filed by this Section may be adopted, amended, or repealed and filed as provided in this Section instead of any other provisions or requirements of this Act. The rules required by this Section may be adopted, amended, or repealed by filing a certified copy with the Secretary of State under subsections (a) and (b) of Section 5-65 and may become effective immediately.

Section 5-20 Implementing discretionary powers

Each rule that implements a discretionary power to be exercised by an agency shall include the standards by which the agency shall exercise the power. The standards shall be stated as precisely and clearly as practicable under the conditions to inform fully those persons affected.

Section 5-25 Ratemaking

Every agency that is empowered by law to engage in ratemaking activities shall establish by rule, not inconsistent with the provisions of law establishing its ratemaking jurisdiction, the practice and procedures to be followed in ratemaking activities before the agency.

Section 5-30 Regulatory flexibility

When an agency proposes a new rule or an amendment to an existing rule that may have an impact on small businesses, not for profit corporations, or small municipalities, the agency shall do each of the following:

a) The agency shall consider each of the following methods for reducing the impact of the rulemaking on small businesses, not for profit corporations, or small municipalities. The agency shall reduce the impact by utilizing one or more of the following methods if it finds that the methods are legal and feasible in meeting the statutory objectives that are the basis of the proposed rulemaking.
   1) Establish less stringent compliance or reporting requirements in the rule for small businesses, not for profit corporations, or small municipalities.
   2) Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses, not for profit corporations, or small municipalities.
   3) Consolidate or simplify the rule's compliance or reporting requirements for small businesses, not for profit corporations, or small municipalities.
   4) Establish performance standards to replace design or operational standards in the rule for small businesses, not for profit corporations, or small municipalities.
   5) Exempt small businesses, not for profit corporations, or small municipalities from any or all requirements of the rule.

b) Before or during the notice period required under subsection (b) of Section 5-40, the agency shall provide an opportunity for small businesses, not for profit corporations, or small municipalities to participate in the rulemaking process. The agency shall utilize one or more of the following techniques. These techniques are in addition to other rulemaking requirements imposed by this Act or by any other Act.
   1) The inclusion in any advance notice of possible rulemaking of a statement that the rule may have an impact on small businesses, not for profit corporations, or small municipalities.
   2) The publication of a notice of rulemaking in publications likely to be obtained by small businesses, not for profit corporations, or small municipalities.

3) The direct notification of interested small businesses, not for profit corporations, or small municipalities.

4) The conduct of public hearings concerning the impact of the rule on small businesses, not for profit corporations, or small municipalities.

5) The use of special hearing or comment procedures to reduce the cost or complexity of participation in the rulemaking by small businesses, not for profit corporations, or small municipalities.

c) Before the notice period required under subsection (b) of Section 5-40, the Secretary of State shall provide to the Business Assistance Office of the Department of Commerce and Community Affairs a copy of any proposed rules or amendments accepted for publication. The Business Assistance Office shall prepare an impact analysis of the rule describing the rule's effect on small businesses whenever the Office believes, in its discretion, that an analysis is warranted or whenever requested to do so by 25 interested persons, an association representing at least 100 interested persons, the Governor, a unit of local government, or the Joint Committee on Administrative Rules. The impact analysis shall be completed within the notice period as described in subsection (b) of Section 5-40. Upon completion of the analysis the Business Assistance Office shall submit this analysis to the Joint Committee on Administrative Rules, any interested person who requested the analysis, and the agency proposing the rule. The impact analysis shall contain the following:

1) A summary of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule.

2) A description of the types and an estimate of the number of small businesses to which the proposed rule will apply.

3) An estimate of the economic impact that the regulation will have on the various types of small businesses affected by the rulemaking.

4) A description or listing of alternatives to the proposed rule that would minimize the economic impact of the rule. The alternatives must be consistent with the stated objectives of the applicable statutes and regulations.

Section 5-35 Procedure for rulemaking

a) Before the adoption, amendment, or repeal of any rule, each agency shall accomplish the actions required by Section 5-40, 5-45, or 5-50, whichever is applicable.

b) No action by any agency to adopt, amend, or repeal a rule after this Act has become applicable to the agency shall be valid unless taken in compliance with this Section. A proceeding to contest any rule on the ground of non-compliance with the procedural requirements of this Section must be commenced within 2 years from the effective date of the rule.

c) The rulemaking procedures of this Article 5 do not apply to a matter relating solely to agency management or personnel practices or to public property, loans, or contracts.

Section 5-40 General rulemaking

a) In all rulemaking to which Sections 5-45 and 5-50 do not apply, each agency shall comply with this Section.

b) Each agency shall give at least 45 days' notice of its intended action to the general public. This first notice period shall commence on the first day the notice appears in the Illinois Register. The first notice shall include all the following:

1) The text of the proposed rule, the old and new materials of a proposed amendment, or the text of the provision to be repealed.

2) The specific statutory citation upon which the proposed rule, the proposed amendment to a rule, or the proposed repeal of a rule is based and by which it is authorized.

3) A complete description of the subjects and issues involved.

3.5) A descriptive title or other description of any published study or research report used in developing the rule, the identity of the person who performed such study, and a description of where the public may obtain a copy of any such study or research report. If the study was performed by an agency or by a person or entity that contracted with the agency for the performance of the study, the agency shall also make copies of the underlying data available to members of the public upon request if the data are not protected from disclosure under the Freedom of Information Act.

4) For all proposed rules and proposed amendments to rules, an initial regulatory flexibility analysis containing a description of the types of small businesses subject to the rule; a brief description of the proposed reporting, bookkeeping, and other procedures required for compliance with the rule; and a description of the types of professional skills necessary for compliance.

5) The time, place, and manner in which interested persons may present their views and comments concerning the proposed rulemaking.

During the first notice period, the agency shall accept from any interested persons data, views, arguments, or comments. These may, in the discretion of the agency, be submitted either orally or in writing or both. The notice published in the Illinois Register shall indicate the manner selected by the agency for the submissions. The agency shall consider all submissions received.

The agency shall hold a public hearing on the proposed rulemaking during the first notice period if (i) during the first notice period, the agency finds that a public hearing would facilitate the submission of views and comments that might not otherwise be submitted or (ii) the agency receives a request for a public hearing, within the first 14 days after publication of the notice of proposed rulemaking in the Illinois Register, from 25 interested persons, an association representing at least 100

interested persons, the Governor, the Joint Committee on Administrative Rules, or a unit of local government that may be affected. At the public hearing, the agency shall allow interested persons to present views and comments on the proposed rulemaking. A public hearing in response to a request for a hearing may not be held less than 20 days after the publication of the notice of proposed rulemaking in the Illinois Register unless notice of the public hearing is included in the notice of proposed rulemaking. A public hearing on proposed rulemaking may not be held less than 5 days before submission of the notice required under subsection (c) of this Section to the Joint Committee on Administrative Rules. Each agency may prescribe reasonable rules for the conduct of public hearings on proposed rulemaking to prevent undue repetition at the hearings. The hearings must be open to the public and recorded by stenographic or mechanical means. At least one agency representative shall be present during the hearing who is qualified to respond to general questions from the public regarding the agency's proposal and the rulemaking process.

c) Each agency shall provide additional notice of the proposed rulemaking to the Joint Committee on Administrative Rules. The period commencing on the day written notice is received by the Joint Committee shall be known as the second notice period and shall expire 45 days thereafter unless before that time the agency and the Joint Committee have agreed to extend the second notice period beyond 45 days for a period not to exceed an additional 45 days or unless the agency has received a statement of objection from the Joint Committee or notification from the Joint Committee that no objection will be issued. The written notice to the Joint Committee shall include (i) the text and location of any changes made to the proposed rulemaking during the first notice period in a form prescribed by the Joint Committee; (ii) for all proposed rules and proposed amendments to rules, a final regulatory flexibility analysis containing a summary of issues raised by small businesses during the first notice period and a description of actions taken on any alternatives to the proposed rule suggested by small businesses during the first notice period, including reasons for rejecting any alternatives not utilized; and (iii) if a written request has been made by the Joint Committee within 30 days after initial notice appears in the Illinois Register under subsection (b) of this Section, an analysis of the economic and budgetary effects of the proposed rulemaking. After commencement of the second notice period, no substantive change may be made to a proposed rulemaking unless it is made in response to an objection or suggestion of the Joint Committee. The agency shall also send a copy of the final regulatory flexibility analysis to each small business that has presented views or comments on the proposed rulemaking during the first notice period and to any other interested person who requests a copy. The agency may charge a reasonable fee for providing the copies to cover postage and handling costs.

d) After the expiration of the second notice period, after notification from the Joint Committee that no objection will be issued, or after a response by the agency to a statement of objections issued by the Joint Committee, whichever is applicable,

the agency shall file, under Section 5-65, a certified copy of each rule, modification, or repeal of any rule adopted by it. The copy shall be published in the Illinois Register. Each rule hereafter adopted under this Section is effective upon filing unless a later effective date is required by statute or is specified in the rulemaking.

e) No rule or modification or repeal of any rule may be adopted, or filed with the Secretary of State, more than one year after the date the first notice period for the rulemaking under subsection (b) commenced. Any period during which the rulemaking is prohibited from being filed under Section 5-115 shall not be considered in calculating this one-year time period.

Section 5-45 Emergency rulemaking

a) "Emergency" means the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare.

b) If any agency finds that an emergency exists that requires adoption of a rule upon fewer days than is required by Section 5-40 and states in writing its reasons for that finding, the agency may adopt an emergency rule without prior notice or hearing upon filing a notice of emergency rulemaking with the Secretary of State under Section 5-70. The notice shall include the text of the emergency rule and shall be published in the Illinois Register. Consent orders or other court orders adopting settlements negotiated by an agency may be adopted under this Section. Subject to applicable constitutional or statutory provisions, an emergency rule becomes effective immediately upon filing under Section 5-65 or at a stated date less than 10 days thereafter. The agency's finding and a statement of the specific reasons for the finding shall be filed with the rule. The agency shall take reasonable and appropriate measures to make emergency rules known to the persons who may be affected by them.

c) An emergency rule may be effective for a period of not longer than 150 days, but the agency's authority to adopt an identical rule under Section 5-40 is not precluded. No emergency rule may be adopted more than once in any 24 month period, except that this limitation on the number of emergency rules that may be adopted in a 24 month period does not apply to (i) emergency rules that make additions to and deletions from the Drug Manual under Section 5-5.16 of the Illinois Public Aid Code or the generic drug formulary under Section 3.14 of the Illinois Food, Drug and Cosmetic Act or (ii) emergency rules adopted by the Pollution Control Board before July 1, 1997 to implement portions of the Livestock Management Facilities Act, or (iii) emergency rules adopted by the Illinois Department of Public Health under subsections (a) through (i) of Section 2 of the Department of Public Health Act when necessary to protect the public's health. Two or more emergency rules having substantially the same purpose and effect shall be deemed to be a single rule for purposes of this Section.

d) In order to provide for the expeditious and timely implementation of the State's fiscal year 1999 budget, emergency rules to implement any provision of Public Act 90-587 or 90-588 or any other budget initiative for fiscal year 1999 may be

adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (d). The adoption of emergency rules authorized by this subsection (d) shall be deemed to be necessary for the public interest, safety, and welfare.

e) In order to provide for the expeditious and timely implementation of the State's fiscal year 2000 budget, emergency rules to implement any provision of this amendatory Act of the 91st General Assembly or any other budget initiative for fiscal year 2000 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (e). The adoption of emergency rules authorized by this subsection (e) shall be deemed to be necessary for the public interest, safety, and welfare.

f) In order to provide for the expeditious and timely implementation of the State's fiscal year 2001 budget, emergency rules to implement any provision of this amendatory Act of the 91st General Assembly or any other budget initiative for fiscal year 2001 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (f). The adoption of emergency rules authorized by this subsection (f) shall be deemed to be necessary for the public interest, safety, and welfare.

g) In order to provide for the expeditious and timely implementation of the State's fiscal year 2002 budget, emergency rules to implement any provision of this amendatory Act of the 92nd General Assembly or any other budget initiative for fiscal year 2002 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (g). The adoption of emergency rules authorized by this subsection (g) shall be deemed to be necessary for the public interest, safety, and welfare.

h) In order to provide for the expeditious and timely implementation of the State's fiscal year 2003 budget, emergency rules to implement any provision of this amendatory Act of the 92nd General Assembly or any other budget initiative for fiscal year 2003 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (h). The adoption of emergency rules authorized by this subsection (h) shall be deemed to be necessary for the public interest, safety, and welfare.

i) In order to provide for the expeditious and timely implementation of the State's fiscal year 2004 budget, emergency rules to implement any provision of this amendatory Act of the 93rd General Assembly or any other budget initiative for

fiscal year 2004 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (i). The adoption of emergency rules authorized by this subsection (i) shall be deemed to be necessary for the public interest, safety, and welfare.

(j) In order to provide for the expeditious and timely implementation of the provisions of the State's fiscal year 2005 budget as provided under the Fiscal Year 2005 Budget Implementation (Human Services) Act, emergency rules to implement any provision of the Fiscal Year 2005 Budget Implementation (Human Services) Act may be adopted in accordance with this Section by the agency charged with administering that provision, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (j). The Department of Public Aid may also adopt rules under this subsection (j) necessary to administer the Illinois Public Aid Code and the Children's Health Insurance Program Act. The adoption of emergency rules authorized by this subsection (j) shall be deemed to be necessary for the public interest, safety, and welfare.

(k) In order to provide for the expeditious and timely implementation of the provisions of the State's fiscal year 2006 budget, emergency rules to implement any provision of this amendatory Act of the 94th General Assembly or any other budget initiative for fiscal year 2006 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (k). The Department of Healthcare and Family Services may also adopt rules under this subsection (k) necessary to administer the Illinois Public Aid Code, the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act, the Senior Citizens and Disabled Persons Prescription Drug Discount Program Act, and the Children's Health Insurance Program Act. The adoption of emergency rules authorized by this subsection (k) shall be deemed to be necessary for the public interest, safety, and welfare.

(l) In order to provide for the expeditious and timely implementation of the provisions of the State's fiscal year 2007 budget, the Department of Healthcare and Family Services may adopt emergency rules during fiscal year 2007, including rules effective July 1, 2007, in accordance with this subsection to the extent necessary to administer the Department's responsibilities with respect to amendments to the State plans and Illinois waivers approved by the federal Centers for Medicare and Medicaid Services necessitated by the requirements of Title XIX and Title XXI of the federal Social Security Act. The adoption of emergency rules authorized by this subsection (l) shall be deemed to be necessary for the public interest, safety, and welfare.

Section 5-46 (Repealed)

Section 5-46.1 Emergency rulemaking

a) The General Assembly finds that the State's current financial situation constitutes an emergency for the purposes of this Act.

b) Beginning July 1, 1995, agencies may implement the changes made by this amendatory Act of 1995 or other budget reduction initiatives for Fiscal Year 1996 through the use of emergency rules in accordance with the provisions of Section 5-45 of this Act, except that the 24-month limitation on the adoption of similar emergency rules under Section 5-45 and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted to implement changes made by this amendatory Act of 1995 or other budget reduction initiatives for Fiscal Year 1996.

c) Agencies may implement the changes made by this amendatory Act of 1996 or other budget reduction initiatives for Fiscal Year 1997 through the use of emergency rules in accordance with the provisions of Section 5-45 of this Act, except that the 24-month limitation on the adoption of similar emergency rules under Section 5-45 and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted to implement changes made by this amendatory Act of 1996 or other budget reduction initiatives for Fiscal Year 1997.

Section 5-46.2

Sec. 5-46.2. Implementation of changes to State Medicaid plan. In order to provide for the timely and expeditious implementation of the federally approved amendment to the Title XIX State Plan as authorized by subsection (r-5) of Section 5A-12.1 of the Illinois Public Aid Code, the Department of Healthcare and Family Services may adopt any rules necessary to implement changes resulting from that amendment to the hospital access improvement payments authorized by Public Act 94-242 and subsection (d) of Section 5A-2 of the Illinois Public Aid Code. The Department is authorized to adopt rules implementing those changes by emergency rulemaking. This emergency rulemaking authority is granted by, and may be exercised only during, the 94th General Assembly.

Section 5-47 (Repealed)

Section 5-50 Peremptory rulemaking

"Peremptory rulemaking" means any rulemaking that is required as a result of federal law, federal rules and regulations, an order of a court, or a collective bargaining agreement pursuant to subsection (d) of Section 1-5, under conditions that preclude compliance with the general rulemaking requirements imposed by Section 5-40 and that preclude the exercise of discretion by the agency as to the content of the rule it is required to adopt. Peremptory rulemaking shall not be used to implement consent orders or other court orders adopting settlements negotiated by the agency. If any agency finds that peremptory rulemaking is necessary and states in writing its

reasons for that finding, the agency may adopt peremptory rulemaking upon filing a notice of rulemaking with the Secretary of State under Section 5-70. The notice shall be published in the Illinois Register. A rule adopted under the peremptory rulemaking provisions of this Section becomes effective immediately upon filing with the Secretary of State and in the agency's principal office, or at a date required or authorized by the relevant federal law, federal rules and regulations, or court order, as stated in the notice of rulemaking. Notice of rulemaking under this Section shall be published in the Illinois Register, shall specifically refer to the appropriate State or federal court order or federal law, rules, and regulations, and shall be in a form as the Secretary of State may reasonably prescribe by rule. The agency shall file the notice of peremptory rulemaking within 30 days after a change in rules is required.

Section 5-55 Automatic repeal of rules

A rule may provide for its automatic repeal on a date specified in the rule. The repeal shall be effective on the date specified, provided that notice of the repeal is published in the Illinois Register not less than 30 nor more than 60 days before the effective date of the repeal. This Section does not apply to any rules filed under Section 5-45.

Section 5-60 Regulatory agenda

An agency shall submit for publication in the Illinois Register by January 1 and July 1 of each year a regulatory agenda to elicit public comments concerning any rule that the agency is considering proposing but for which no notice of proposed rulemaking activity has been submitted to the Illinois Register. A regulatory agenda shall consist of summaries of those rules. Each summary shall, in less than 2,000 words, contain the following when practicable:

1) A description of the rule.
2) The statutory authority the agency is exercising.
3) A schedule of the dates for any hearings, meetings, or other opportunities for public participation in the development of the rule.
4) The date the agency anticipates submitting a notice of proposed rulemaking activity, if known.
5) The name, address, and telephone number of the agency representative who is knowledgeable about the rule, from whom any information may be obtained, and to whom written comments may be submitted concerning the rule.
6) A statement whether the rule will affect small businesses, not for profit corporations, or small municipalities as defined in this Act.
7) Any other information that may serve the public interest. Nothing in this Section shall preclude an agency from adopting a rule that has not been summarized in a regulatory agenda or from adopting a rule different than one summarized in a regulatory agenda if in the agency head's best judgment it is necessary. If an agency finds that a situation exists that requires adoption of a rule that was not summarized on either of the 2 most recent regulatory agendas, it shall state its reasons in writing together with the facts that form their basis upon filing the notice of proposed rulemaking with the Secretary of State under Section 5-40. Nothing in this Section shall require an agency to adopt a rule summarized in a

regulatory agenda. The Secretary of State shall adopt rules necessary for the publication of a regulatory agenda, including but not limited to standard submission forms and deadlines.

Section 5-65 Filing of rules

a) Each agency shall file in the office of the Secretary of State and in the agency's principal office a certified copy of each rule and modification or repeal of any rule adopted by it. The Secretary of State and the agency shall each keep a permanent register of the rules open to public inspection. Whenever a rule or modification or repeal of any rule is filed with the Secretary of State, the Secretary shall send a certified copy of the rule, modification or repeal, within 3 working days after it is filed, to the Joint Committee on Administrative Rules.

b) Concurrent with the filing of any rule under this Section, the filing agency shall submit to the Secretary of State for publication in the next available issue of the Illinois Register a notice of adopted rules. The notice shall include the following:

1) The text of the adopted rule, including the full text of the new rule (if the material is a new rule), the full text of the rule or rules as amended (if the material is an amendment to a rule or rules), or the notice of repeal (if the material is a repealer).

2) The name, address, and telephone number of an individual who will be available to answer questions and provide information to the public concerning the adopted rules.

3) Other information that the Secretary of State may by rule require in the interest of informing the public.

Section 5-70 Form and publication of notices

a) The Secretary of State may prescribe reasonable rules concerning the form of documents to be filed with the Secretary of State and may refuse to accept for filing certified copies that do not comply with the rules. In addition, the Secretary of State shall publish and maintain the Illinois Register and may prescribe reasonable rules setting forth the manner in which agencies shall submit notices required by this Act for publication in the Illinois Register. The Illinois Register shall be published at least once each week on the same day (unless that day is an official State holiday, in which case the Illinois Register shall be published on the next following business day) and sent to subscribers who subscribe for the publication with the Secretary of State. The Secretary of State may charge a subscription price to subscribers that covers mailing and publication costs.

b) The Secretary of State shall accept for publication in the Illinois Register all Pollution Control Board documents, including but not limited to Board opinions, the results of Board determinations concerning adjusted standards proceedings, notices of petitions for individual adjusted standards, results of Board determinations concerning the necessity for economic impact studies, restricted

status lists, hearing notices, and any other documents related to the activities of the Pollution Control Board that the Board deems appropriate for publication.

Section 5-75 Incorporation by reference

a) An agency may incorporate by reference, in its rules adopted under Section 5-35, rules, regulations, standards, and guidelines of an agency of the United States or a nationally or state recognized organization or association without publishing the incorporated material in full. The reference in the agency rules must fully identify the incorporated matter by publisher address and date in order to specify how a copy of the material may be obtained and must state that the rule, regulation, standard, or guideline does not include any later amendments or editions. An agency may incorporate by reference these matters in its rules only if the agency, organization, or association originally issuing the matter makes copies readily available to the public. This Section does not apply to any agency internal manual. For any law imposing taxes on or measured by income, the Department of Revenue may promulgate rules that include incorporations by reference of federal rules or regulations without identifying the incorporated matter by date and without including a statement that the incorporation does not include later amendments.

b) Use of the incorporation by reference procedure under this Section shall be reviewed by the Joint Committee on Administrative Rules during the rulemaking process as set forth in this Act.

c) The agency adopting a rule, regulation, standard, or guideline under this Section shall maintain a copy of the referenced rule, regulation, standard, or guideline in at least one of its principal offices and shall make it available to the public upon request for inspection and copying at no more than cost. Requests for copies of materials incorporated by reference shall not be deemed Freedom of Information Act requests unless so labeled by the requestor. The agency shall designate by rule the agency location at which incorporated materials are maintained and made available to the public for inspection and copying. These rules may be adopted under the procedures in Section 5-15. In addition, the agency may include the designation of the agency location of incorporated materials in a rulemaking under Section 5-35, but emergency and peremptory rulemaking procedures may not be used solely for this purpose.

Section 5-80 Publication of rules

a) The Secretary of State shall, by rule, prescribe a uniform system for the codification of rules. The Secretary of State shall also, by rule, establish a schedule for compliance with the uniform codification system. The Secretary of State shall not adopt any codification system or schedule under this subsection without the approval of the Joint Committee on Administrative Rules. Approval by the Joint Committee shall be conditioned solely upon establishing that the proposed codification system and schedule are compatible with existing electronic

data processing equipment and programs maintained by and for the General Assembly. Nothing in this Section shall prohibit an agency from adopting rules in compliance with the codification system earlier than specified in the schedule.

b) Each rule proposed in compliance with the codification system shall be reviewed by the Secretary of State before the expiration of the public notice period under subsection (b) of Section 5-40. The Secretary of State shall cooperate with agencies in the Secretary of State's review to insure that the purposes of the codification system are accomplished. The Secretary of State shall have the authority to make changes in the numbering and location of the rule in the codification scheme if those changes do not affect the meaning of the rules. The Secretary of State may recommend changes in the sectioning and headings proposed by the agency and suggest grammatical and technical changes to correct errors. The Secretary of State may add notes concerning the statutory authority, dates proposed and adopted, and other similar notes to the text of the rules, if the notes are not supplied by the agency. This review by the Secretary of State shall be for the purpose of insuring the uniformity of and compliance with the codification system. The Secretary of State shall prepare indexes by agency, subject matter, and statutory authority and any other necessary indexes, tables, and other aids for locating rules to assist the public in the use of the Code.

c) The Secretary of State shall make available to the agency and the Joint Committee on Administrative Rules copies of the changes in the numbering and location of the rule in the codification scheme, the recommended changes in the sectioning and headings, and the suggestions made concerning the correction of grammatical and technical errors or other suggested changes. The agency, in the notice required by subsection (c) of Section 5-40, shall provide to the Joint Committee a response to the recommendations of the Secretary of State including any reasons for not adopting the recommendations.

d) If a reorganization of agencies, transfer of functions between agencies, or abolishment of agencies by executive order or law affects rules on file with the Secretary of State, the Secretary of State shall notify the Governor, the Attorney General, and the agencies involved of the effects upon the rules on file. If the Governor or the agencies involved do not respond to the Secretary of State's notice within 45 days by instructing the Secretary of State to delete or transfer the rules, the Secretary of State may delete or place the rules under the appropriate agency for the purpose of insuring the consistency of the codification scheme and shall notify the Governor, the Attorney General, and the agencies involved.

e) (Blank).

f) The Secretary of State shall ensure that the Illinois Administrative Code is published and made available to the public in a form that is updated at least annually. The Code shall contain the complete text of all rules of all State agencies filed with the Secretary's office and effective on October 1, 1984, or later and the indexes, tables, and other aids for locating rules prepared by the Secretary of State. The Secretary of State shall design the Illinois Register to supplement the Code. The Secretary of State shall ensure that copies of the Illinois Register are available to the public and governmental entities and agencies. If the Secretary of

State determines that the Secretary's office will publish and distribute either the Register or the Code, the Secretary shall make copies available to the public at a reasonable fee, established by the Secretary by rule, and shall make copies available to governmental entities and agencies at a price covering publication and mailing costs only. The Secretary of State shall make the electronically stored database of the Illinois Register and the Code available in accordance with this Section and Section 5.08 of the Legislative Information System Act.

g) The publication of a rule in the Code or in the Illinois Register as an adopted rule shall establish a rebuttable presumption that the rule was duly filed and that the text of the rule as published in the Code is the text of the rule as adopted. Publication of the text of a rule in any other location whether by the agency or some other person shall not be taken as establishing such a presumption. Judicial or official notice shall be taken of the text of each rule published in the Code or Register.

h) The codification system, the indexes, tables, and other aids for locating rules prepared by the Secretary of State, notes, and other materials developed under this Section in connection with the publication of the Illinois Administrative Code and the Illinois Register shall be the official compilations of the administrative rules of Illinois and shall be entirely in the public domain for purposes of federal copyright law.

i) The Legislative Information System shall maintain on its electronic data processing equipment the complete text of the Illinois Register and Illinois Administrative Code created in compliance with this Act. This electronic information shall be made available for use in the publication of the Illinois Register and Illinois Administrative Code by the Secretary of State if the Secretary determines that his office will publish these materials as authorized by subsection (f).

j) The Legislative Information System, upon consultation with the Joint Committee on Administrative Rules and the Secretary of State, shall make the electronically stored database of the Illinois Register and the Illinois Administrative Code available in an electronically stored medium to those who request it. The Legislative Information System shall establish and charge a reasonable fee for providing the electronic information. Amounts received under this Section shall be deposited into the General Assembly Computer Equipment Revolving Fund.

Section 5-85 Correction of rules filed with the Secretary of State

a) Corrections to a proposed rulemaking that has been published in the Illinois Register but is not yet adopted shall be made pursuant to the rules of the Secretary of State. Corrections to an adopted rulemaking that has been published in the Illinois Register shall be made by initiating a new rulemaking or pursuant to subsection (b).

b) Expedited corrections to any form of adopted rule that has been published in the Illinois Register shall be made pursuant to the procedures set forth in this

subsection (b) and the rules of the Joint Committee on Administrative Rules adopted pursuant to this subsection (b).

An agency may request that the Joint Committee on Administrative Rules issue a certification of correction under this subsection (b) to correct: (1) non-substantive errors such as typographical, clerical, grammatical, printing, copying or other inadvertent errors such as omission of existing or inclusion of previously repealed Illinois Administrative Code text; (2) any omissions or errors that create unintentional discrepancies between adopted rule text and text previously published in the Illinois Register or second notice rule text; or (3) any discrepancies between adopted rule text and agreements certified by the Joint Committee on Administrative Rules during the second notice period.

In requesting the Joint Committee on Administrative Rules to issue a certification of correction, the agency shall specify which of the above reasons for correction is applicable and shall submit the full affected Section of the Code, indicating both the incorrect text and the agency's proposal for correcting the error. The Joint Committee on Administrative Rules shall verify that the requested correction meets the criteria of this subsection (b), that the public interest will be served and no hardship created by remediation of the error or omission more quickly than could be accomplished by the regular rulemaking process, and that the public notice considerations of this Act are not being unduly circumvented.

Upon receiving a certification of correction from the Joint Committee on Administrative Rules, an agency shall file a notice of correction with the Secretary of State for publication in the next available issue of the Illinois Register. Pursuant to agreement between the Joint Committee on Administrative Rules and the agency, the effective date of the correction shall be identical to that of the adopted rule being corrected or a specified later date.
The agency shall take reasonable and appropriate measures to make rule corrections known to persons who may be affected by them.

Section 5-90 Joint Committee on Administrative Rules

a) The Joint Committee on Administrative Rules is established as a legislative support services agency subject to the Legislative Commission Reorganization Act of 1984. When feasible, the agenda of each meeting of the Joint Committee shall be submitted to the Secretary of State to be published at least 5 days before the meeting in the Illinois Register. The Joint Committee may also weekly, or as often as necessary, submit for publication in the Illinois Register lists of the dates on which notices under Section 5-40 were received and the dates on which the proposed rulemakings will be considered. The provisions of this subsection shall not prohibit the Joint Committee from acting upon an item that was not contained in the published agenda.

b) The Joint Committee may charge reasonable fees for copies of documents or publications to cover the cost of copying or printing. The Joint Committee shall, however, provide copies of documents or publications without cost to agencies that are directly affected by recommendations or findings included in the documents or publications.

Section 5-95 Oaths and affirmations

a) The Executive Director of the Joint Committee or any designated person may administer oaths or affirmations and take affidavits or depositions of any person.

b) The Executive Director, upon approval of a majority vote of the Joint Committee, or the presiding officers may subpoena and compel the attendance before the Joint Committee and examine under oath any person. They also may subpoena and compel the production for the Joint Committee of any records, books, papers, contracts, or other documents.

c) If any person fails to obey a subpoena issued under this Section, the Joint Committee may apply to any circuit court to secure compliance with the subpoena. The failure to comply with the order of the court issued in response thereto shall be punished as a contempt.

Section 5-100 Powers of the Joint Committee

The Joint Committee shall have the following powers under this Act:

a) The function of the Joint Committee shall be the promotion of adequate and proper rules by agencies and an understanding on the part of the public respecting those rules. This function shall be advisory only, except as provided in Sections 5-115 and 5-125.

b) The Joint Committee may undertake studies and investigations concerning rulemaking and agency rules.

c) The Joint Committee shall monitor and investigate agencies' compliance with the provisions of this Act, make periodic investigations of the rulemaking activities of all agencies, and evaluate and report on all rules in terms of their propriety, legal adequacy, relation to statutory authorization, economic and budgetary effects, and public policy.

d) Hearings and investigations conducted by the Joint Committee under this Act may be held at times and places within the State as the Committee deems necessary.

e) The Joint Committee may request from any agency an analysis of the following:

1) The effect of a new rule, amendment, or repealer, including any direct economic effect on the persons regulated by the rule; any anticipated effect on the proposing agency's budget and the budgets of other State agencies; and any anticipated effects on State revenues.

2) The agency's evaluation of the submissions presented to the agency under Section 5-40.

3) A description of any modifications from the initially published proposal made in the finally accepted version of the intended rule, amendment, or repealer.

4) The agency's justification and rationale for the intended rule, amendment, or repealer.

f) Failure of the Joint Committee to object to any proposed rule, amendment, or repealer or any existing rule shall not be construed as implying direct or indirect approval of the rule or proposed rule, amendment, or repealer by the Joint Committee or the General Assembly.

Section 5-105 Responsibilities of the Joint Committee

The Joint Committee shall have the following responsibilities under this Act:

a) The Joint Committee shall conduct a systematic and continuing study of the rules and rulemaking process of all State agencies, including those agencies not covered in Section 1-25, for the purpose of improving the rulemaking process, reducing the number and bulk of rules, removing redundancies and unnecessary repetitions, and correcting grammatical, typographical, and similar errors not affecting the construction or meaning of the rules. The Joint Committee shall make recommendations to the appropriate affected agency.

b) The Joint Committee shall review the statutory authority on which any administrative rule is based.

c) The Joint Committee shall maintain a review program to study the impact of legislative changes, court rulings, and administrative action on agency rules and rulemaking.

d) The Joint Committee shall suggest rulemaking by an agency whenever the Joint Committee, in the course of its review of the agency's rules under this Act, determines that the agency's rules are incomplete, inconsistent, or otherwise deficient.

Section 5-110 Responsibilities of the Joint Committee with respect to proposed rules, amendments, or repealers

a) The Joint Committee shall examine any proposed rule, amendment to a rule, and repeal of a rule to determine whether the proposed rule, amendment to a rule, or repeal of a rule is within the statutory authority upon which it is based; whether the rule, amendment to a rule, or repeal of a rule is in proper form; and whether the notice was given before its adoption, amendment, or repeal and was sufficient to give adequate notice of the purpose and effect of the rule, amendment, or repeal. In addition, the Joint Committee may consider whether the agency has considered alternatives to the rule that are consistent with the stated objectives of both the applicable statutes and regulations and whether the rule is designed to minimize economic impact on small businesses.

b) If the Joint Committee objects to a proposed rule, amendment to a rule, or repeal of a rule, it shall certify the fact to the issuing agency and include with the certification a statement of its specific objections.

c) If within the second notice period the Joint Committee certifies its objections to the issuing agency, then that agency shall do one of the following within 90 days after receiving the statement of objection:

1) Modify the proposed rule, amendment, or repealer to meet the Joint Committee's objections.

2) Withdraw the proposed rule, amendment, or repealer in its entirety.

3) Refuse to modify or withdraw the proposed rule, amendment, or repealer.

d) If an agency elects to modify a proposed rule, amendment, or repealer to meet the Joint Committee's objections, it shall make those modifications that are necessary to meet the objections and shall resubmit the rule, amendment, or repealer to the Joint Committee. In addition, the agency shall submit a notice of its election to modify the proposed rule, amendment, or repealer to meet the Joint Committee's objections to the Secretary of State, and the notice shall be published in the first available issue of the Illinois Register, but the agency shall not be required to conduct a public hearing. If the Joint Committee determines that the modifications do not remedy the Joint Committee's objections, it shall so notify the agency in writing and shall submit a copy of that notification to the Secretary of State for publication in the next available issue of the Illinois Register. In addition, the Joint Committee may recommend legislative action as provided in subsection (g) for agency refusals.

e) If an agency elects to withdraw a proposed rule, amendment, or repealer as a result of the Joint Committee's objections, it shall notify the Joint Committee in writing of its election and shall submit a notice of the withdrawal to the Secretary of State. The notice shall be published in the next available issue of the Illinois Register.

f) Failure of an agency to respond to the Joint Committee's objections to a proposed rule, amendment, or repealer within the time prescribed in subsection (c) shall constitute withdrawal of the proposed rule, amendment, or repealer in its entirety. The Joint Committee shall submit a notice to that effect to the Secretary of State, and the notice shall be published in the next available issue of the Illinois Register. The Secretary of State shall refuse to accept for filing a certified copy of the proposed rule, amendment, or repealer under the provisions of Section 5-65.

g) If an agency refuses to modify or withdraw the proposed rule, amendment, or repealer to remedy an objection stated by the Joint Committee, it shall notify the Joint Committee in writing of its refusal and shall submit a notice of refusal to the Secretary of State. The notice shall be published in the next available issue of the Illinois Register. If the Joint Committee decides to recommend legislative action in response to an agency refusal, then the Joint Committee shall have drafted and introduced into either house of the General Assembly appropriate legislation to implement the recommendations of the Joint Committee.

h) No rule, amendment, or repeal of a rule shall be accepted by the Secretary of State for filing under Section 5-65, if the rulemaking is subject to this Section, until

after the agency has responded to the objections of the Joint Committee as provided in this Section.

Section 5-115 Other action by the Joint Committee

a) If the Joint Committee determines that the adoption and effectiveness of a proposed rule, amendment, or repealer or portion of a proposed rule, amendment, or repealer by an agency would be objectionable under any of the standards for the Joint Committee's review specified in Section 5-100, 5-105, 5-110, 5-120, or 5-130 and would constitute a serious threat to the public interest, safety, or welfare, the Joint Committee may issue a statement to that effect at any time before the proposed rule, amendment, or repealer takes effect. The statement may be issued by the Joint Committee only upon the affirmative vote of three-fifths of the members appointed to the Joint Committee. The Joint Committee, however, may withdraw a statement within 180 days after it is issued upon the affirmative vote of a majority of the members appointed to the Joint Committee. A certified copy of each statement and withdrawal shall be transmitted to the proposing agency and to the Secretary of State for publication in the next available issue of the Illinois Register.

b) The proposed rule, amendment, or repealer or the portion of the proposed rule, amendment, or repealer to which the Joint Committee has issued a statement under subsection (a) shall not be accepted for filing by the Secretary of State nor take effect unless the statement is withdrawn or a joint resolution is passed as provided in subsection (c). The agency may not enforce or invoke for any reason a proposed rule, amendment, or repealer or any portion thereof that is prohibited from being filed by this subsection.

c) After the issuance of a statement under subsection (a), any member of the General Assembly may introduce in the General Assembly a joint resolution stating that the General Assembly desires to discontinue the prohibition against the proposed rule, amendment, or repealer or the portion thereof to which the statement was issued being filed and taking effect. If the joint resolution is not passed by both houses of the General Assembly within 180 days after receipt of the statement by the Secretary of State or the statement is not withdrawn as provided in subsection (a), the agency shall be prohibited from filing the proposed rule, amendment, or repealer or the portion thereof and the proposed rule, amendment, or repealer or the portion thereof shall not take effect. The Secretary of State shall not accept for filing the proposed rule, amendment, or repealer or the portion thereof with respect to which the Joint Committee has issued a statement under subsection (a) unless that statement is withdrawn or a joint resolution is passed as provided in this subsection. If the 180-day period expires before passage of the joint resolution, the agency may not file the proposed rule, amendment, or repealer or the portion thereof as adopted and it shall not take effect.

d) If a statement is issued under this Section, then, in response to an objection or suggestion of the Joint Committee, the agency may propose changes to the proposed rule, amendment, or repealer or portion of a proposed rule, amendment,

or repealer. If the agency proposes changes, it must provide additional notice to the Joint Committee under the same terms and conditions and shall be subject to the same requirements and limitations as those set forth for a second notice period under subsection (c) of Section 5-40.

Section 5-120 Responsibilities of the Joint Committee with respect to emergency, peremptory, and other existing rules

a) The Joint Committee may examine any rule to determine whether the rule is within the statutory authority upon which it is based and whether the rule is in proper form.

b) If the Joint Committee objects to a rule, it shall, within 5 days of the objection, certify the fact to the adopting agency and include within the certification a statement of its specific objections.

c) Within 90 days after receiving the certification, the agency shall do one of the following:

1) Notify the Joint Committee that it has elected to amend the rule to meet the Joint Committee's objection.

2) Notify the Joint Committee that it has elected to repeal the rule.

3) Notify the Joint Committee that it refuses to amend or repeal the rule.

d) If the agency elects to amend a rule to meet the Joint Committee's objections, it shall notify the Joint Committee in writing and shall initiate rulemaking procedures for that purpose by giving notice as required by Section 5-35. The Joint Committee shall give priority to rules so amended when setting its agenda.

e) If the agency elects to repeal a rule as a result of the Joint Committee's objections, it shall notify the Joint Committee in writing of its election and shall initiate rulemaking procedures for that purpose by giving notice as required by Section 5-35.

f) If the agency elects to amend or repeal a rule as a result of the Joint Committee's objections, it shall complete the process within 180 days after giving notice in the Illinois Register.

g) Failure of the agency to respond to the Joint Committee's objections to a rule within the time prescribed in subsection (c) shall constitute a refusal to amend or repeal the rule.

h) If an agency refuses to amend or repeal a rule to remedy an objection stated by the Joint Committee, it shall notify the Joint Committee in writing of its refusal and shall submit a notice of refusal to the Secretary of State. The notice shall be published in the next available issue of the Illinois Register. If the Joint Committee, in response to an agency refusal, decides to suspend the rule, then it may do so pursuant to Section 5-125.

Section 5-125 Other Joint Committee action with respect to emergency or peremptory rulemaking

a) If the Joint Committee determines that a rule or portion of a rule adopted under Section 5-45 or 5-50 is objectionable under any of the standards for the Joint Committee's review specified in Section 5-100, 5-105, 5-110, 5-120, or 5-130 and constitutes a serious threat to the public interest, safety, or welfare, the Joint Committee may issue a statement to that effect. The statement may be issued by the Joint Committee only upon the affirmative vote of three-fifths of the members appointed to the Joint Committee. The Joint Committee, however, may withdraw a statement within 180 days after it is issued upon the affirmative vote of a majority of the members appointed to the Joint Committee. A certified copy of each statement and withdrawal shall be transmitted to the affected agency and to the Secretary of State for publication in the next available issue of the Illinois Register. Within 30 days of transmittal of the statement to the agency, the agency shall notify the Joint Committee in writing whether it has elected to repeal or amend the rule. Failure of the agency to notify the Joint Committee and Secretary of State within 30 days constitutes a decision by the agency to not repeal the rule.

b) The effectiveness of the rule or the portion of a rule shall be suspended immediately upon receipt of the certified statement by the Secretary of State. The Secretary of State shall indicate the suspension prominently and clearly on the face of the affected rule or the portion of a rule filed in the Office of the Secretary of State. Rules or portions of rules suspended under this subsection shall not become effective again unless the statement is withdrawn as provided in subsection (a) or unless within 180 days from receipt of the statement by the Secretary of State, the General Assembly discontinues the suspension by joint resolution under subsection (c). The agency may not enforce, or invoke for any reason, a rule or portion of a rule that has been suspended under this subsection. During the 180-day period, the agency may not file, nor may the Secretary of State accept for filing, any rule that (i) has the same purpose and effect as rules or portions of rules suspended under this subsection or (ii) does not substantially address the statement issued under subsection (a), except as otherwise provided in this Section.

c) After the issuance of a statement under subsection (a), any member of the General Assembly may introduce in the General Assembly a joint resolution stating that the General Assembly desires to discontinue the suspension of effectiveness of a rule or the portion of the rule to which the statement was issued. If the joint resolution is not passed by both houses of the General Assembly within the 180-day period provided in subsection (b) or the statement is not withdrawn, the rule or the portion of the rule shall be considered repealed and the Secretary of State shall immediately remove the rule or portion of a rule from the collection of effective rules.

d) If a statement is issued under this Section, then, in response to an objection or suggestion of the Joint Committee, the agency may propose changes to the rule, amendment, or repealer or portion of a rule, amendment, or repealer. If the agency proposes changes, it must provide additional notice to the Joint Committee under the same terms and conditions and shall be subject to the same

requirements and limitations as those set forth for a second notice period under subsection (c) of Section 5-40.

Section 5-130 Periodic review of existing rules

a) The Joint Committee shall evaluate the rules of each agency at least once every 5 years. The Joint Committee by rule shall develop a schedule for this periodic evaluation. In developing this schedule the Joint Committee shall group rules by specified areas to assure the evaluation of similar rules at the same time. The schedule shall include at least the following categories:
   1) Human resources.
   2) Law enforcement.
   3) Energy.
   4) Environment.
   5) Natural resources.
   6) Transportation.
   7) Public utilities.
   8) Consumer protection.
   9) Licensing laws.
   10) Regulation of occupations.
   11) Labor laws.
   12) Business regulation.
   13) Financial institutions.
   14) Government purchasing.

b) When evaluating rules under this Section, the Joint Committee's review shall include an examination of the following:
   1) Organizational, structural, and procedural reforms that affect rules or rulemaking.
   2) Merger, modification, establishment, or abolition of regulations.
   3) Eliminating or phasing out outdated, overlapping, or conflicting regulatory jurisdictions or requirements of general applicability.
   4) Economic and budgetary effects.

Section 5-135 Administration of Act

The Joint Committee may adopt rules to administer the provisions of this Act relating to the Joint Committee's responsibilities, powers, and duties under this Article 5.

Section 5-140 Reports to the General Assembly

The Joint Committee shall report its findings, conclusions, and recommendations, including suggested legislation, to the General Assembly by February 1 of each year.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report with the Speaker, the Minority Leader, and the Clerk of the House of Representatives, the

President, the Minority Leader, and the Secretary of the Senate, and the Legislative Research Unit, as required by Section 3.1 of the General Assembly Organization Act, and filing additional copies with the State Government Report Distribution Center for the General Assembly as required under paragraph (t) of Section 7 of the State Library Act.

Section 5-145 Request for adoption of rules

a) An agency shall, in accordance with Section 5-35, adopt rules that implement recently enacted legislation of the General Assembly in a timely and expeditious manner.

b) Any interested person may request an agency to adopt, amend, or repeal a rule. Each agency shall prescribe by rule the procedure for consideration and disposition of the person's request. If, within 30 days after submission of a request, the agency has not initiated rulemaking proceedings in accordance with Section 5-35, the request shall be deemed to have been denied.

Section 5-150 Declaratory rulings

a) Requests for rulings. Each agency may in its discretion provide by rule for the filing and prompt disposition of petitions or requests for declaratory rulings as to the applicability to the person presenting the petition or request of any statutory provision enforced by the agency or of any rule of the agency. Declaratory rulings shall not be appealable. The agency shall maintain as a public record in the agency's principal office and make available for public inspection and copying any such rulings. The agency shall delete trade secrets or other confidential information from the ruling before making it available.

b) Overlapping regulations.

1) Any persons subject to a rule imposed by a State agency and to a similar rule imposed by the federal government may petition the agency administering the State rule for a declaratory ruling as to whether compliance with the federal rule will be accepted as compliance with the State rule.

2) If the agency determines that compliance with the federal rule would not satisfy the purposes or relevant provisions of the State law involved, the agency shall so inform the petitioner in writing, stating the reasons for the determination, and may issue a declaratory ruling to that effect.

3) If the agency determines that compliance with the federal rule would satisfy the purposes and relevant provisions of the State law involved but that it would not satisfy the relevant provisions of the State rule involved, the agency shall so inform the petitioner and the Joint Committee on Administrative Rules, and the agency may initiate a rulemaking proceeding in accordance with Section 5-35 to consider revising the rule to accept compliance with the federal rule in a manner that is consistent with the purposes and relevant provisions of the State law.

4) If the agency determines that compliance with the federal rule would satisfy the purposes and relevant provisions of the State law and the State rule involved, the agency shall issue a declaratory ruling indicating its intention to accept compliance with the federal rule as compliance with the State rule and the terms and conditions under which it intends to do so.

Section 5-155 References to this Act

After the effective date of this amendatory Act of 1991, when rules contain references to Sections of this Act as they were numbered before the effective date of this amendatory Act of 1991, agencies shall within one year amend those rules to change the references to the Section numbers created by this amendatory Act of 1991. The amendment may be adopted by filing with the Secretary of State for publication in the Illinois Register a notice that lists the precise regulatory citations of the obsolete statutory references that are being revised and the new citation for each. Upon filing a notice, the agency shall also certify to the Secretary of State a copy of each rule that contains an amended citation for the Illinois Administrative Code. All such certified rules shall be adopted and effective immediately upon filing.

Section 5-160 Certain provisions of the Illinois Public Aid Code control over provisions of this Act

In the event that any provisions of this Act are in conflict with the provisions of Section 4-2 of the Illinois Public Aid Code, the provisions of Section 4-2 of the Illinois Public Aid Code shall control.

Section 5-165 Ex parte communications in rulemaking; special government agents.

a) Notwithstanding any law to the contrary, this Section applies to ex parte communications made during the rulemaking process.

b) "Ex parte communication" means any written or oral communication by any person during the rulemaking period that imparts or requests material information or makes a material argument regarding potential action concerning an agency's general, emergency, or peremptory rulemaking under this Act and that is communicated to that agency, the head of that agency, or any other employee of that agency. For purposes of this Section, the rulemaking period begins upon the commencement of the first notice period with respect to general rulemaking under Section 5-40, upon the filing of a notice of emergency rulemaking under Section 5-45, or upon the filing of a notice of rulemaking with respect to peremptory rulemaking under Section 5-50. "Ex parte communication" does not include the following: (i) statements by a person publicly made in a public forum; (ii) statements regarding matters of procedure and practice, such as the format of public comments, the number of copies required, the manner of filing such comments, and the status of a rulemaking proceeding; and (iii) statements made by a State employee of that agency to the agency head or other employee of that agency.

c) An ex parte communication received by any agency, agency head, or other agency employee shall immediately be reported to that agency's ethics officer by the recipient of the communication and by any other employee of that agency who responds to the communication. The ethics officer shall require that the ex parte communication promptly be made a part of the record of the rulemaking proceeding. The ethics officer shall promptly file the ex parte communication with the Executive Ethics Commission, including all written communications, all written responses to the communications, and a memorandum prepared by the ethics officer stating the nature and substance of all oral communications, the identity and job title of the person to whom each communication was made, all responses made, the identity and job title of the person making each response, the identity of each person from whom the written or oral ex parte communication was received, the individual or entity represented by that person, any action the person requested or recommended, and any other pertinent information. The disclosure shall also contain the date of any ex parte communication.

d) Failure to take certain actions under this Section ay constitute a violation as provided in Section 5-50 of the State Officials and Employees Ethics Act.

ARTICLE 10. ADMINISTRATIVE HEARINGS

Section 10-5 Rules required for hearings

All agencies shall adopt rules establishing procedures for contested case hearings.

Section 10-10 Components of rules

All agency rules establishing procedures for contested cases shall at a minimum comply with the provisions of this Article 10. In addition, agency rules establishing procedures may include, but need not be limited to, the following components: pre-hearing conferences, representation interview or deposition procedures, default procedures, selection of administrative law judges, the form of the final order, the standard of proof used, which agency official makes the final decision, representation of parties, subpoena request procedures, discovery and protective order procedures, and any review or appeal process within the agency.

Section 10-15 Standard of proof

Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under this Act by an agency shall be the preponderance of the evidence.

Section 10-20 Qualifications of administrative law judges

All agencies shall adopt rules concerning the minimum qualifications of administrative law judges for contested case hearings. The agency head or an attorney licensed to practice law in Illinois may act as an administrative law judge or panel for an agency without adopting any rules

under this Section. These rules may be adopted using the procedures in either Section 5-15 or 5-35.

Section 10-25 Contested cases; notice; hearing

a) In a contested case, all parties shall be afforded an opportunity for a hearing after reasonable notice. The notice shall be served personally or by certified or registered mail or as otherwise provided by law upon the parties or their agents appointed to receive service of process and shall include the following:
   1) A statement of the time, place, and nature of the hearing.
   2) A statement of the legal authority and jurisdiction under which the hearing is to be held.
   3) A reference to the particular Sections of the substantive and procedural statutes and rules involved.
   4) Except where a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted, the consequences of a failure to respond, and the official file or other reference number.
   5) The names and mailing addresses of the administrative law judge, all parties, and all other persons to whom the agency gives notice of the hearing unless otherwise confidential by law.

b) An opportunity shall be afforded all parties to be represented by legal counsel and to respond and present evidence and argument.

c) Unless precluded by law, disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

Section 10-30 Disqualification of administrative law judge

a) The agency head, one or more members of the agency head, or any other person meeting the qualifications set forth by rule under Section 10-20 may be the administrative law judge.

b) The agency shall provide by rule for disqualification of an administrative law judge for bias or conflict of interest. An adverse ruling, in and of itself, shall not constitute bias or conflict of interest.

Section 10-35 Record in contested cases

a) The record in a contested case shall include the following:
   1) All pleadings (including all notices and responses thereto), motions, and rulings.
   2) All evidence received.
   3) A statement of matters officially noticed.
   4) Any offers of proof, objections, and rulings thereon.
   5) Any proposed findings and exceptions.
   6) Any decision, opinion, or report by the administrative law judge.

7) All staff memoranda or data submitted to the administrative law judge or members of the agency in connection with their consideration of the case that are inconsistent with Section 10-60.

8) Any communication prohibited by Section 10-60.

No such communication shall form the basis for any finding of fact.

b) Oral proceedings or any part thereof shall be recorded stenographically or by other means that will adequately insure the preservation of the testimony or oral proceedings and shall be transcribed on the request of any party.

c) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

Section 10-40 Rules of evidence; official notice

In contested cases:

a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence and privilege as applied in civil cases in the circuit courts of this State shall be followed. Evidence not admissible under those rules of evidence may be admitted, however, (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form.

b) Subject to the evidentiary requirements of subsection (a) of this Section a party may conduct cross-examination required for a full and fair disclosure of the facts.

c) Notice may be taken of matters of which the circuit courts of this State may take judicial notice. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

Section 10-45 Proposal for decision

Except where otherwise expressly provided by law, when in a contested case a majority of the officials of the agency who are to render the final decision has not heard the case or read the record, the decision, if adverse to a party to the proceeding other than the agency, shall not be made until a proposal for decision is served upon the parties and an opportunity is afforded to each party adversely affected to file exceptions and to present a brief and, if the agency so permits, oral argument to the agency officials who are to render the decision. The proposal for decision shall contain a statement of the reasons therefor and of each issue of fact or law necessary to the proposed decision and shall be prepared by the persons who conducted the hearing or one who has read the record.

Section 10-50 Decisions and orders

a) A final decision or order adverse to a party (other than the agency) in a contested case shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties or their agents appointed to receive service of process shall be notified either personally or by registered or certified mail of any decision or order. Upon request a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record.

b) All agency orders shall specify whether they are final and subject to the Administrative Review Law.

c) A decision by any agency in a contested case under this Act shall be void unless the proceedings are conducted in compliance with the provisions of this Act relating to contested cases, except to the extent those provisions are waived under Section 10-70 and except to the extent the agency has adopted its own rules for contested cases as authorized in Section 1-5.

Section 10-55 Expenses and attorney's fees

a) In any contested case initiated by any agency that does not proceed to court for judicial review and on any issue where a court does not have jurisdiction to make an award of litigation expenses under Section 2-611 of the Civil Practice Law, any allegation made by the agency without reasonable cause and found to be untrue shall subject the agency making the allegation to the payment of the reasonable expenses, including reasonable attorney's fees, actually incurred in defending against that allegation by the party against whom the case was initiated. A claimant may not recover litigation expenses when the parties have executed a settlement agreement that, while not stipulating liability or violation, requires the claimant to take correction action or pay a monetary sum.

b) The claimant shall make a demand for litigation expenses to the agency. If the claimant is dissatisfied because of the agency's failure to make any award or because of the insufficiency of the agency's award, the claimant may petition the Court of Claims for the amount deemed owed. If allowed any recovery by the Court of Claims, the claimant shall also be entitled to reasonable attorney's fees and the reasonable expenses incurred in making a claim for the expenses incurred in the administrative action. The Court of Claims may reduce the amount of the litigation expenses to be awarded under this Section, or deny an award, to the extent that the claimant engaged in conduct during the course of the proceeding that unduly and unreasonably protracted the final resolution of the matter in controversy.

c) In any case in which a party has any administrative rule invalidated by a court for any reason, including but not limited to the agency's exceeding its statutory authority or the agency's failure to follow statutory procedures in the adoption of the rule, the court shall award the party bringing the action the reasonable expenses of the litigation, including reasonable attorney's fees.

Section 10-60 Ex parte communications

a) Except in the disposition of matters that agencies are authorized by law to entertain or dispose of on an ex parte basis, agency heads, agency employees, and administrative law judges shall not, after notice of hearing in a contested case or licensing to which the procedures of a contested case apply under this Act, communicate, directly or indirectly, in connection with any issue of fact, with any person or party, or in connection with any other issue with any party or the representative of any party, except upon notice and opportunity for all parties to participate.

b) However, an agency member may communicate with other members of the agency, and an agency member or administrative law judge may have the aid and advice of one or more personal assistants.

c) An ex parte communication received by any agency head, agency employee, or administrative law judge shall be made a part of the record of the pending matter, including all written communications, all written responses to the communications, and a memorandum stating the substance of all oral communications and all responses made and the identity of each person from whom the ex parte communication was received.

d) Communications regarding matters of procedure and practice, such as the format of pleadings, number of copies required, manner of service, and status of proceedings, are not considered ex parte communications under this Section.

Section 10-65 Licenses

a) When any licensing is required by law to be preceded by notice and an opportunity for a hearing, the provisions of this Act concerning contested cases shall apply.

b) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license shall continue in full force and effect until the final agency decision on the application has been made unless a later date is fixed by order of a reviewing court.

c) Except as provided in Section 1-27 of the Department of Natural Resources Act, an application for the renewal of a license or a new license shall include the applicant's social security number. Each agency shall require the licensee to certify on the application form, under penalty of perjury, that he or she is not more than 30 days delinquent in complying with a child support order. Every application shall state that failure to so certify shall result in disciplinary action,

and that making a false statement may subject the licensee to contempt of court. The agency shall notify each applicant or licensee who acknowledges a delinquency or who, contrary to his or her certification, is found to be delinquent or who after receiving notice, fails to comply with a subpoena or warrant relating to a paternity or a child support proceeding, that the agency intends to take disciplinary action. Accordingly, the agency shall provide written notice of the facts or conduct upon which the agency will rely to support its proposed action and the applicant or licensee shall be given an opportunity for a hearing in accordance with the provisions of the Act concerning contested cases. Any delinquency in complying with a child support order can be remedied by arranging for payment of past due and current support. Any failure to comply with a subpoena or warrant relating to a paternity or child support proceeding can be remedied by complying with the subpoena or warrant. Upon a final finding of delinquency or failure to comply with a subpoena or warrant, the agency shall suspend, revoke, or refuse to issue or renew the license. In cases in which the Department of Public Aid has previously determined that an applicant or a licensee is more than 30 days delinquent in the payment of child support and has subsequently certified the delinquency to the licensing agency, and in cases in which a court has previously determined that an applicant or licensee has been in violation of the Non-Support Punishment Act for more than 60 days, the licensing agency shall refuse to issue or renew or shall revoke or suspend that person's license based solely upon the certification of delinquency made by the Department of Public Aid or the certification of violation made by the court. Further process, hearings, or redetermination of the delinquency or violation by the licensing agency shall not be required. The licensing agency may issue or renew a license if the licensee has arranged for payment of past and current child support obligations in a manner satisfactory to the Department of Public Aid or the court. The licensing agency may impose conditions, restrictions, or disciplinary action upon that license.

d) Except as provided in subsection (c), no agency shall revoke, suspend, annul, withdraw, amend materially, or refuse to renew any valid license without first giving written notice to the licensee of the facts or conduct upon which the agency will rely to support its proposed action and an opportunity for a hearing in accordance with the provisions of this Act concerning contested cases. At the hearing, the licensee shall have the right to show compliance with all lawful requirements for the retention, continuation, or renewal of the license. If, however, the agency finds that the public interest, safety, or welfare imperatively requires emergency action, and if the agency incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. Those proceedings shall be promptly instituted and determined.

e) Any application for renewal of a license that contains required and relevant information, data, material, or circumstances that were not contained in an application for the existing license shall be subject to the provisions of subsection (a).

Section 10-70 Waiver

Compliance with any or all of the provisions of this Act concerning contested cases may be waived by written stipulation of all parties.

ARTICLE 15. SEVERABILITY AND EFFECTIVE DATE

Section 15-5 Severability

If any provision of this Act or the application of any provision of this Act to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are severable.

Section 15-10 Effective date

This Act takes effect upon becoming law.

Recycled Paper - soybean inks
Printed by Authority of the State of Illinois
Legislative Printing Unit Order 49226
February • 2007

Copies printed..... 130
Total cost..... $677.04
Cost per copy $5.20